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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

In the Matter of the)
Application of Evergy)
Missouri West, Inc.)
d/b/a Evergy Missouri) Case No. EO-2026-0129
West For Approval of an)
Amendment to Nucor)
Steel Sedalia, LLC)
Agreement.)

EVIDENTIARY HEARING
VOLUME 1
TUESDAY, MAY 26, 2026
9:00 a.m.

Governor Office Building
200 Madison Street, Room 310
Jefferson City, Missouri 65101

KENNETH SEYER, Presiding
SENIOR REGULATORY LAW JUDGE
KAYLA HAHN, Chair
MAIDA J. COLEMAN
GLEN KOLKMEYER
JOHN MITCHELL

COMMISSIONERS

Reported By:

Mary K. Ivey, Certified Court Reporter

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1 (The hearing commenced at 9:00
2 a.m.)

3 JUDGE SEYER: All right. We are
4 on the record.

5 Good morning. Today is May
6 26th, 2026. The time is 9 o'clock a.m.
7 The Commission has set this time for an
8 evidentiary hearing in the case
9 captioned as In the Matter of the
10 Application of Evergy Missouri West,
11 Incorporated doing business as Evergy
12 Missouri West for approval of an
13 amendment to Nucor Steel Sedalia, LLC
14 agreement. And Nucor is N-u-c-o-r. It
15 is the Commission Case No.
16 EO-2026-0129.

17 My name is Ken Seyer and I am
18 the regulatory law judge presiding over
19 this hearing.

20 The hearing is taking place in
21 the Public Service Commission hearing
22 room, Room 310 of the Governor Office
23 Building in Jefferson City, Missouri.

24 Before we go any further, let's
25 have counsel for the parties make their

1 entries of appearance, beginning with
2 Everygy.

3 MS. WHIPPLE: Good morning.
4 Jacqueline Whipple and Michael Robinson
5 of Dentons U.S. LLP. We are here with
6 Roger Steiner of Everygy.

7 JUDGE SEYER: All right. For
8 Nucor?

9 MR. ELLINGER: Good morning,
10 Judge. Marc Ellinger with Ellinger
11 Bell and Joseph Briscar, excuse me,
12 with Stone Mattheis Xenopoulos & Brew
13 on behalf of Nucor Sedalia Steel.

14 JUDGE SEYER: Thank you. For
15 the staff.

16 MR. GRAHAM: Good morning,
17 Judge. Paul Graham for the staff of
18 the Missouri Public Service Commission.
19 I'm here with Travis Pringle.

20 JUDGE SEYER: Thank you. And
21 for the Office of the Public Counsel.

22 MR. GRAHAM: Oh, sorry. I
23 forgot the most important part of my
24 team is Ray Cunneen. His maiden voyage
25 here. He's sitting behind me, so he's

1 out of sight and out of mind.

2 JUDGE SEYER: All right. And
3 for the Office of Public Counsel.

4 MR. KLIZER: John Klizer on
5 behalf of the Office of Public Counsel.
6 My business address, Governor Office
7 Building, Suite 650, 200 Madison
8 Street, P.O. Box 2230, Jefferson City,
9 Missouri 65102. Thank you.

10 JUDGE SEYER: All right, thank
11 you.

12 For those in the hearing room, I
13 ask everyone to silence their cell
14 phones and mobile devices. For those
15 connected via Webex, I ask that you
16 mute your microphone when not speaking.

17 The Court Reporter today is not
18 present in the hearing room but is
19 instead participating via Webex;
20 therefore, it is important that you
21 speak into the microphone in the
22 hearing room so that she can record all
23 the proceedings.

24 Before we get too far into this,
25 I've got -- I've got a couple of

1 questions for the attorneys. First for
2 the attorneys -- well, for the -- for
3 the attorneys in general, I don't see
4 -- staff has not listed this as an
5 exhibit, the document that was filed,
6 the Suggestions in Opposition to
7 Non-Unanimous Stipulation and
8 Agreement. Is there anyone who would
9 have an objection to that being
10 admitted as an exhibit?

11 MR. CLIZER: Your Honor, for
12 clarification, are you asking --

13 (Court Reporter clarification.)

14 MR. CLIZER: Thank you, Madam
15 Court Reporter.

16 John Clizer, OPC.

17 To clarify, your Honor, are you
18 asking for the admission of the entire
19 suggestions in opposition or are you
20 asking for the admission of the
21 attachment to the same?

22 JUDGE SEYER: All right. The
23 attachment. Refamiliarize myself. If
24 you can refresh my memory as to what
25 the attachment is.

1 MR. GRAHAM: Yes, your Honor.

2 This is Paul Graham speaking for the
3 staff.

4 Staff filed suggestions in
5 opposition. Staff additionally filed
6 proposed testimony responsive to the
7 motion that the parties filed for an
8 approval of a partial stipulation. So
9 we tendered testimony and asked leave
10 to have that admitted or to use it here
11 at the hearing.

12 That was the subject I think of
13 the -- of the motion that you're
14 talking about. So it's testimony in
15 the form of a memorandum. It was
16 mentioned as an exhibit to staff's
17 suggestions in opposition to the
18 partial stipulation -- or non-unanimous
19 stipulation.

20 JUDGE SEYER: Okay. What I'm
21 referring to is actually just the
22 pleading and not the attachment.

23 MR. GRAHAM: Well, your Honor,
24 staff wouldn't --

25 (Court Reporter clarification.)

1 MR. GRAHAM: Paul Graham for the
2 staff again.

3 Ordinarily staff -- well, staff
4 -- I thought that this was a pleading.
5 You had ordered that anybody that
6 wished to or needed to would respond by
7 a certain deadline. I think you
8 shortened it to two days.

9 The rule deadline for responding
10 to non-unanimous stipulations and the
11 objections or the suggestions in
12 opposition which I filed or which the
13 staff filed was in the nature of a
14 pleading and so we didn't tender it as
15 an exhibit.

16 But attached to it or as a part
17 of that filing, we went ahead and
18 tendered testimony in support of what
19 we were saying and that, of course,
20 would be considered an exhibit and we
21 requested leave to file it.

22 So I think your question goes to
23 the testimony.

24 JUDGE SEYER: Okay.

25 (Indistinguishable.)

1 (Court Reporter clarification.)

2 MR. GRAHAM: Paul Graham is still
3 speaking.

4 Do you have the EFIS number? I
5 thought --

6 JUDGE SEYER: It is actually
7 EFIS. And for the sake of the Court
8 Reporter, that is --

9 (Court Reporter clarification.)

10 JUDGE SEYER: This is --

11 (Court Reporter clarification.)

12 JUDGE SEYER: This is Judge
13 Seyer.

14 And, Mr. Graham, we're referring
15 to EFIS, that's E-F-I-S, item
16 number 45.

17 MR. GRAHAM: Yes.

18 JUDGE SEYER: All right, let me
19 take a look at that.

20 All right, Mr. Clizer, assuming
21 we are talking about the suggestions,
22 the pleading with all the attachments,
23 do you have an objection to that?

24 MR. CLIZER: John Clizer, OPC.

25 And you have put me in something

1 of an awkward position because the OPC
2 filed both an objection to the filed
3 stipulation and an objection to the
4 motion for leave to file testimony
5 filed by Evergy.

6 And to the extent that we filed
7 that objection on the basis that there
8 should not be additional rounds of
9 testimony brought in this late in the
10 case, I would think -- theoretically I
11 would want to maintain that objection
12 for all efforts to bring in additional
13 testimony at this point in time even
14 though our current position is largely
15 aligned with staff.

16 So from a standpoint of do I
17 object in the standard that it is
18 against my party's interest for staff
19 to have that brought into the record,
20 no.

21 From the standpoint of am I
22 objecting generally to the introduction
23 of evidence brought this late into the
24 hearing, which would include my written
25 objection to Evergy leave to file

1 testimony in support of the
2 stipulation, I would maintain that
3 objection as same.

4 JUDGE SEYER: Okay.

5 MR. CLIZER: Does the bench
6 follow me?

7 JUDGE SEYER: A bit.

8 MR. CLIZER: Fair enough.

9 JUDGE SEYER: All right. Then
10 let's -- I'll take that off the table
11 for now.

12 All right. For the -- for
13 Everyg's attorneys, though, let me ask
14 you this question. Staff has suggested
15 that the Commission were to accept the
16 non-unanimous stipulation and
17 agreement, that there be some
18 conditions attached to that. Which, if
19 any, witness would be the proper person
20 to ask questions of that?

21 MS. WHIPPLE: Jackie Whipple for
22 the company.

23 That would be Brian File.

24 JUDGE SEYER: Okay. And,
25 Mr. Clizer, same question. If we

1 wanted to ask a witness from the Public
2 Counsel's Office about their position
3 on those conditions, who would that
4 witness be?

5 MR. CLIZER: John Clizer for
6 OPC.

7 That answer would be Geoff
8 Marke. Sorry, Dr. Geoff Marke.

9 JUDGE SEYER: And that -- for
10 the sake of the Court Reporter, that is
11 G-e-o-f-f, am I correct about that?

12 G-e-o-f-f M-a-r-k-e.

13 MR. CLIZER: For the sake of
14 Madam Court Reporter, do you need us to
15 identify our party or is just our names
16 sufficient? It's John Clizer.

17 COURT REPORTER: Your name, sir.
18 Thank you.

19 JUDGE SEYER: All right. Do
20 the parties have any matters to take
21 up before we get into opening
22 statements?

23 All right. All right. Would
24 someone like to present an opening
25 statement on behalf of Evergy?

1 MS. WHIPPLE: Good morning. May
2 it please the Commission.

3 My name is Jacqueline Whipple
4 and together with my colleague Michael
5 Robinson of Dentons U.S. LLP and Roger
6 Steiner of Evergy, we have the
7 privilege of appearing before you this
8 morning on behalf of Evergy Missouri
9 West, which we'll also refer to as EMW.

10 In this case, EMW and Nucor ask
11 the Commission to approve their May 18
12 non-unanimous stipulation and agreement
13 which would allow Nucor to participate
14 in the company's demand response
15 programs, including those under the
16 Missouri Energy Investment Act --
17 Missouri Energy Efficiency Investment
18 Act, also known as MEEIA.

19 Nucor's previous participation
20 in EMW's MEEIA business demand response
21 program, which we're also going to
22 refer to as the BDR program, produced
23 more than 2.5 million in avoided
24 capacity costs at a benefit to all
25 customers.

1 Nucor's curtailment also
2 produced SPP resource adequacy value.
3 That value reduces the capacity that
4 EMW must otherwise procure to meet SPP
5 requirements, which also lower costs
6 for all customers.

7 But staff and OPC either want to
8 prevent Nucor from participating in
9 EMW's MEEIA BDR program at all or tack
10 on unreasonable conditions that would
11 treat Nucor differently than every
12 other customer.

13 So that customers can continue
14 to benefit from Nucor's participation,
15 the Commission should approve the
16 stipulation and agreement.

17 In doing so, the Commission
18 should reject the conditions to the
19 stipulation proposed by staff and OPC.
20 Staff's and OPC's conditions
21 unreasonably seek to treat one customer
22 differently and impermissibly seek to
23 create administrative and evidentiary
24 burdens that are not supported by
25 Missouri law.

1 As EMW witness Brian File
2 testifies in his May 18 testimony
3 offered in support of the stipulation,
4 in many respects the stipulation
5 addresses concerns raised by staff and
6 OPC in their pre-filed testimony.

7 Importantly, there is a
8 safeguard built into the stipulation
9 and agreement. If a financial analysis
10 of Nucor's participation in the BDR
11 program again, like in its past
12 performance, shows a net benefit to all
13 customers, then the Commission's
14 approval of the stipulation and its
15 Nucor contract amendment automatically
16 would extend for at least the term of
17 that contract, which is currently
18 through 2029.

19 However, if that financial
20 analysis shows a net cost to customers,
21 then the conditional approval will
22 expire at the conclusion of 2027.

23 Of course, any participation by
24 Nucor beyond 2027 would also be
25 dependent on the Commission's future

1 approval of the company's MEEIA
2 programs.

3 Staff's own evaluation,
4 measurement and verification evaluator,
5 also known as EM&V evaluator, will run
6 this 2027 performance measurement using
7 generally accepted baseline
8 methodologies.

9 All other provisions for service
10 to Nucor under the special rate for
11 incremental load service tariff, or SIL
12 tariff, will remain. That includes all
13 pricing and rates, and every existing
14 ratepayer protection remains intact.

15 The stipulation confirms that
16 Nucor is paid only for the kilowatts it
17 actually reduces on the same MEEIA
18 Cycle 4 BDI terms -- BDR terms as every
19 other participant.

20 Under the stipulation, Nucor's
21 contribution to EMW's BDR goals is
22 capped at 30 percent of measured
23 portfolio megawatts. If Nucor delivers
24 more, EMW's earnings opportunity, or
25 EO, is reduced to reflect 30 percent of

1 the portfolio.

2 Finally, any Nucor kilowatts
3 counted towards EMW's 2027 BDR goals
4 will not count toward the 65 percent
5 threshold that vests EMW's earnings
6 opportunity.

7 The stipulation is supported by
8 the company's pre-filed testimony and
9 Mr. File's May 18 testimony offered in
10 support of the stipulation, and it
11 reduces the genuine issues in this case
12 for the Commission's determination.

13 As this Commission is well
14 aware, and as EMW's witnesses Mr. File
15 and JP Meitner testified, SPP has set
16 increased minimum planning reserve
17 margins of 36 percent margin for winter
18 and 16 percent margin for summer, these
19 effective starting summer of 2026.

20 EMW as the load responsible
21 entity must meet these new SPP
22 requirements. Timely approval of this
23 stipulation and the amendment permits
24 the company to count Nucor's reduced
25 load in the upcoming SPP accreditation

1 seasons.

2 The company's 2026 IRP annual
3 update filed on May 7 shows EMW
4 satisfying its required capacity
5 through 2028, during which time new
6 load is expected to on-ramp. To meet
7 its IRP goals, EMW plans to seek CCN
8 approval for over 1.3 gigawatts of new
9 generation by 2030.

10 Demand response is important to
11 EMW satisfying SPP's accreditation
12 requirements. The megawatts SPP counts
13 toward Evergy's resource adequacy
14 obligation directly shape the resource
15 mix and timing that the company's IRP
16 model produces. If demand response is
17 removed, the plan calls for more
18 capacity sooner, at a higher cost. Mr.
19 Meitner and Mr. File testify about
20 these aspects of SPP accreditation in
21 the company's IRP.

22 As I mentioned, Nucor takes
23 service under the approved SIL tariff
24 schedule SIL.

25 Sheet 157 says that SIL service

1 may not be eligible for participation
2 in programs offered pursuant to MEEIA
3 or for participation in programs
4 related to demand response or off peak
5 discounts unless otherwise ordered by
6 the Commission when approving a
7 contract for service under this tariff.

8 And so the tariff contemplates
9 the Commission's approval of Nucor's
10 participation via an amendment to the
11 contract in connection with the
12 stipulation.

13 MEEIA provides that demand side
14 investments are valued the same by the
15 Commission as supply side investments
16 and so utilities may recover costs and
17 earn on verified cost-effective
18 savings.

19 It also specifies that customers
20 like Nucor who opt out of the demand
21 side investment mechanism, or DSIM, can
22 participate in interruptible or
23 curtailable programs.

24 The Commission has already
25 classified the company's BDR program as

1 such a program in its March 11, 2020
2 order in EO-2019-0132. And as you are
3 aware, the Commission approved EMW's
4 MEEIA Cycle 4 portfolio, including the
5 BDR program, by an order dated
6 December 11, 2024 in Case No.
7 EO-2023-0370, with the program running
8 through 2027. EMW and Nucor are simply
9 seeking approval for Nucor to
10 participate in a program and budget
11 already approved by this Commission.

12 EMW's three witnesses have
13 sponsored testimony and will be
14 available to answer your questions.
15 Brian File, director of demand side
16 management and energy efficiency, will
17 explain why the company needs demand
18 response, why Nucor's participation
19 helps every customer and why staff's
20 proposed alternatives to MEEIA are
21 unworkable.

22 He will also explain Nucor's
23 event performance from 2021 through
24 2023 summarized in his confidential
25 schedules BF-5 and BF-6. As mentioned,

1 Mr. File also offers supporting
2 testimony for the stipulation and
3 agreement in this case.

4 Linda Nunn, senior management,
5 regulatory affairs, testifies that the
6 costs staff proposes to shoehorn into
7 the SIL tariff's hold harmless
8 calculation are not appropriately
9 applied there and why Nucor's
10 participation yields system-wide
11 benefits that reach every customer.

12 Mr. Meitner, director of market
13 operations, will explain SPP's resource
14 adequacy rules and EMW's 2026 IRP
15 annual update as related to the
16 company's DR programs and he will
17 further explain how staff's and OPC's
18 alternate DR pathways are nonviable.

19 As far as the parties' prior
20 filed list of issues, most of them have
21 already been answered by the
22 stipulation. The first issues, issues
23 A and A1, are resolved by the
24 stipulation.

25 As discussed, the Commission

1 should approve the stipulation and its
2 SIL contract amendment, allowing Nucor
3 to participate in DR programs offered
4 by EMW, including the MEEIA BDR
5 program, because the record establishes
6 that it results in just and reasonable
7 rates and is in the public interest.

8 Similarly, due to the
9 protections in the May 18 stipulation
10 and the existing ratepayer protections
11 in the SIL tariff itself, no additional
12 conditions should be imposed.

13 In addition to the stipulation,
14 the SIL tariff contains five existing
15 protections to ensure that customers
16 are not and will not be harmed by
17 Nucor's participation, which EMW's
18 witnesses describe in detail.

19 These include the hold harmless
20 mechanism associated with the provision
21 of electric service, the SIL specific
22 FAC sub-accounts, the rate case revenue
23 imputation EMW performs, the 25 percent
24 four-hour Nucor load deviation tracking
25 and the plan outage notice obligations.

1 Together, these resolve issue A1a.

2 Issues A2, A2a and A2b ask if
3 Nucor's participation in EMW's MEEIA
4 BDR program would produce benefits to
5 all customers, if those quantified
6 benefits exceed quantified costs and if
7 the BDR program has a sufficient
8 verification process for curtailments.
9 The answer to all of those questions is
10 yes.

11 In approving the MEEIA Cycle 4
12 portfolio, this Commission expressly
13 found that the Cycle 4 stipulation
14 meets the aforementioned MEEIA
15 standards.

16 As Mr. Meitner and Mr. File
17 testify, SPP verifies and credits
18 Nucor's tested reductions against
19 Everyg's resource adequacy obligation.
20 Every customer shares in that RA
21 reduction. Nucor's prior verified peak
22 demand reductions resulted in a
23 benefit-cost ratio of twice more
24 benefits than costs.

25 As Mr. File testifies, those

1 figures used Commission-approved
2 Cycle 3 avoided capacity costs and
3 third-party measured and verified
4 reductions and they exclude
5 transmission and distribution of
6 avoided costs. This in turn means the
7 real benefit to cost ratio likely runs
8 higher.

9 As to the verification part,
10 AD&M -- ADM & Associates ran the 2021
11 through 2022 baseline methodology as
12 third-party evaluation consultant.
13 Staff's own EM&V consultant, Evergreen
14 Economics, oversaw that work. Neither
15 of these third parties flagged Nucor's
16 baseline or any methodological concern.

17 Participants will be paid only
18 for measured demand reduction after
19 each event and SPP separately validates
20 the megawatts that count toward
21 Evergy's resource adequacy.

22 Going forward, the stipulation
23 puts the 2027 performance measurement,
24 that financial analysis mentioned in
25 the stipulation, in the hands of

1 staff's EM&V evaluator based on
2 generally accepted methodologies.

3 Issue A2c asks if there are
4 other DR participation pathways
5 available to Nucor and what detriments
6 or benefits are there to those.

7 Staff and OPC have identified
8 so-called alternative pathways, but
9 none of them are workable as Mr. File
10 and Mr. Meitner testify and as this
11 demonstrative chart demonstrates.

12 As Mr. File and Mr. Meitner
13 testify, in SPP, only Evergy as the
14 load responsible entity earns resource
15 adequacy value through its programs.

16 Schedule MBDR is a supplement to
17 BDR by its own terms and the resource
18 adequacy value that MBDR could deliver
19 is already captured through BDR
20 participation.

21 Aggregators of retail customers,
22 or ARCs, or direct SPP wholesale
23 participation do not give Evergy
24 resource adequacy credit.

25 Issue B asks whether existing

1 hold harmless and cost-tracking
2 protections are sufficient to protect
3 non-SIL customers from any cost shift
4 attributable to Nucor service if Nucor
5 participates in EMW DR programs. As we
6 have discussed, the answer is yes.

7 Again, the stipulation contains
8 the conditional approval of protection.
9 Further, as Ms. Nunn testifies, at each
10 general rate case, EMW imputes revenue
11 to cover any shortfall between Nucor's
12 rate revenues and the incremental cost
13 to serve. Any deficiency falls on
14 shareholders, not on other customers.

15 Moreover, SIL-specific FAC
16 sub-accounts track the Nucor PPA,
17 market and transmission costs and
18 revenues. That tracking has produced
19 only minor adjustments to date.

20 Staff and OPC would run MEEIA
21 program costs through the SIL tariffs
22 hold harmless calculation, claiming
23 that those MEEIA program costs are a
24 cost of serving Nucor and that
25 excluding them from the hold harmless

1 calculation in the tariff would cost
2 non-Nucor ratepayers unfairly.

3 But the Commission Cycle 3 order
4 in EO-2019-0132 already directs that
5 DSIM opt-out customers who participate
6 in demand response are compensated,
7 with the costs flowing through the
8 DSIM, not through any electric service
9 specific hold harmless provision.

10 Ms. Nunn will explain why mixing
11 up these concepts creates an absurd
12 result where EMW's shareholders bear
13 all of the costs while every other
14 customer pockets the benefits.

15 Issue C asks whether the
16 Commission's approval of Nucor's
17 participation in the MEEIA BDR program
18 should impact EMW's ability to receive
19 an earnings opportunity for verified
20 savings produced by Nucor's
21 participation. The answer is no.

22 The stipulation carves out
23 Nucor's 2027 kilowatts from the
24 65 percent vesting threshold for EMW's
25 earnings opportunity and EMW is on

1 track to clear that threshold without
2 Nucor.

3 The stipulation also caps
4 Nucor's contribution at 30 percent of
5 the portfolio for EO purposes.

6 Otherwise, based on the stipulation,
7 EMW should receive the standard
8 earnings opportunity for Nucor's
9 third-party verified savings on the
10 same pay for performance terms that
11 govern other MEEIA BDR participants.

12 The Commission set the Cycle 4
13 EO structure when it approved the
14 Cycle 4 stipulation and nothing in that
15 order or MEEIA carve Nucor out of it.
16 Removing EMW's earnings opportunity
17 would unfairly penalize EMW for
18 delivering the resource that MEEIA is
19 designed to incentivize.

20 EMW needs demand response to
21 meet SPP's new resource adequacy
22 requirements, as further confirmed by
23 the company's latest 2026 IRP annual
24 update.

25 Nucor is a proven resource,

1 providing measurable benefits to all
2 customers. Even so, the terms of the
3 stipulation along with the SIL tariff's
4 existing protections shield ratepayers
5 from any shortfall.

6 Accordingly, the Commission
7 should approve the stipulation and its
8 SIL contract amendment because the
9 record establishes it is in the public
10 interest and results in just and
11 reasonable rates.

12 The Commission should reject
13 conditions to the stipulation proposed
14 by staff and OPC which unreasonably
15 seek to treat Nucor differently than
16 every other EMW customer or attempt to
17 create burdens beyond MEEIA's statutory
18 requirements.

19 Thank you.

20 JUDGE SEYER: All right, this is
21 Judge Seyer.

22 Are there any questions from the
23 Commissioners?

24 All right, thank you.

25 All right. Opening statement on

1 behalf of Nucor Steel.

2 MR. BRISCAR: Good morning, your
3 Honor. Good morning, Commissioners.

4 My name is Joseph Briscar of the
5 law firm Stone Mattheis Xenopoulos &
6 Brew. I'm here with Marc Ellinger of
7 the law firm Ellinger Bell. And along
8 with my colleague Michael Lavanga, we
9 represent Nucor Steel Sedalia in this
10 case.

11 Nucor Steel Sedalia is a steel
12 mill that uses an electric arc furnace
13 to melt and recycle scrap steel into
14 new steel products. The Sedalia mill
15 is one of the newest steel mills in the
16 United States since it opened in 2020.

17 Nucor is proud of its
18 partnership with the State of Missouri
19 and looks forward to being part of the
20 Sedalia community for many years.

21 Before Nucor started up in
22 Missouri, this Commission approved a
23 special contract for the Sedalia mill.
24 The Commission also approved the SIL
25 tariff to comport with the special

1 contract. Both the contract and the
2 SIL tariff have been in effect since
3 2020.

4 Nucor and Evergy now have
5 negotiated an amendment to the special
6 contract to allow Nucor to participate
7 in Evergy's demand response programs.
8 The amendment was filed with this
9 Commission and that -- and this case
10 was initiated.

11 Today we respectfully ask that
12 the Commission approve the
13 non-unanimous stipulation and agreement
14 between Evergy and Nucor to modify
15 Nucor's contract with Evergy to allow
16 Nucor to conditionally participate in
17 Evergy's business demand response
18 programs and demand response programs
19 in general.

20 The stipulation and agreement is
21 in the public interest, provides
22 ratepayer protections and allows Nucor
23 to participate in valuable demand
24 response programs.

25 At a time when electric markets

1 across the country are experiencing
2 dramatic load growth, capacity
3 constraints and higher energy prices,
4 demand response is becoming an
5 increasingly important tool to help
6 lower energy costs and ensure system
7 reliability.

8 While the evidence in this case
9 shows that Nucor's participation would
10 provide benefits to Evergy's system,
11 both staff and the Office of Public
12 Counsel witnesses question the validity
13 of those benefits.

14 The stipulation and agreement
15 addresses those concerns. Specifically
16 it provides that Nucor's participation
17 in Evergy's business demand response
18 program will be conditional for 2027.
19 Evergy will then conduct a financial
20 analysis of Nucor's participation.

21 If the benefits to customers
22 outweigh the costs, Nucor can continue
23 to participate. If the costs to
24 consumers outweigh the benefits, Nucor
25 will not be allowed to participate

1 beyond 2027.

2 In addition, the stipulation and
3 agreement provides reasonable
4 conditions on Evergy's earnings
5 opportunities from Nucor's
6 participation and the business demand
7 response program intended to address
8 the concerns raised by staff and OPC.

9 In short, through the
10 stipulation and agreement, Evergy and
11 Nucor are requesting that the
12 Commission approve a trial period to
13 show that the -- that Nucor's
14 participation in Evergy's demand
15 response program can deliver value to
16 all customers.

17 Thank you for your consideration
18 and respectfully urge that you approve
19 the contract amendment and the
20 non-unanimous stipulation and
21 agreement.

22 JUDGE SEYER: Thank you.

23 Are there any questions from the
24 Commissioners?

25 COMMISSIONER MITCHELL: Judge

1 Seyer, I have just one.

2 JUDGE SEYER: Commissioner
3 Mitchell.

4 COMMISSIONER MITCHELL: Thank
5 you. I notice on the list of witnesses
6 that there's not a witness from Nucor
7 other than in the opening statements.

8 So I guess my question is we
9 heard in Evergy's opening statement
10 that the benefit-cost ratio was around
11 two and that in this -- in the
12 conditional participation section of
13 the agreement, that if that
14 benefit-cost ratio exceeds one, then
15 the program would be allowed to
16 continue on beyond 2027.

17 And in the agreement, I didn't
18 pick up if there were additional
19 verifications after 2027 to allow the
20 -- the -- that participation to
21 continue. Or will there only be one
22 verification or will it go into the
23 standard verification process at that
24 point?

25 MR. BRISCAR: My understanding

1 is specific to the settlement agreement
2 in this case and Nucor's participation,
3 the financial analysis is only for
4 2027, for the 2027 period.

5 And if the benefits and costs
6 show that Nucor's participation -- or
7 that the benefits do not exceed the
8 costs in 2027, that Nucor will not be
9 allowed to participate.

10 Thereafter, my understanding is
11 that it would just be part of the
12 normal measurement and verification as
13 part of the MEEIA programs.

14 COMMISSIONER MITCHELL: Part of
15 the EM&V --

16 MR. BRISCAR: That's right, yes.

17 COMMISSIONER MITCHELL: --
18 assessment?

19 Okay. Thank you, that helps me.

20 MR. BRISCAR: Of course.
21 Anything further?

22 JUDGE SEYER: No. Thank you.

23 MR. BRISCAR: Okay. Thank you.

24 JUDGE SEYER: All right. This
25 is Judge Seyer.

1 Staff, would you like to present
2 an opening statement?

3 MR. CUNNEEN: Ray Cunneen here
4 with Paul Graham and Travis Pringle on
5 behalf of staff.

6 May it please the Commission.
7 We have a problem. This Commission
8 staff wants to support approval of the
9 stipulation between Evergy and Nucor,
10 but it must be in compliant (sic) with
11 MEEIA and the hold harmless provisions
12 of the special incremental load
13 agreement, or SIL.

14 Through the passing of MEEIA in
15 2009, the Legislature made it clear its
16 intent to value demand side
17 curtailment. Demand reduction means
18 more capacity -- more secure capacity,
19 reduced purchase costs and benefits to
20 all.

21 (Court Reporter clarification.)

22 MR. CUNNEEN: MEEIA was designed
23 to be funded by ratepayers, but only if
24 the benefits to the customers outweigh
25 the costs. Commission staff

1 wholeheartedly support programs that
2 reduce energy demand and bring benefits
3 to all ratepayers.

4 Staff witness Jordan Hull will
5 provide testimony of the various demand
6 side programs that achieve these goals
7 without the need for additional cost to
8 ratepayers.

9 The stipulation reached between
10 Evergy and Nucor failed to meet the
11 stringent requirements of MEEIA and
12 failed to properly adhere to the hold
13 harmless provisions of the SIL. Evergy
14 and Nucor bear the burden of proof
15 because they are the signatories to
16 this stipulation.

17 MEEIA requires cost-effective
18 and verifiable energy demand savings,
19 benefits to all members of the customer
20 class, regardless of participation, and
21 the fair apportionment of the costs and
22 benefits to each customer class.

23 Unfortunately, numerous problems
24 exist with the stipulation reached
25 between Evergy and Nucor. The first

1 problem is verification of load
2 reduction and the resulting benefits to
3 all customers.

4 Evergy's method of determining a
5 baseline load for Nucor is unpractical
6 and unreliable and taints all the data
7 offered as proof. Nucor's load is too
8 volatile and unpredictable for the
9 approach proposed by Evergy.

10 Evergy witnesses rely on stale
11 data from Nucor's problematic
12 participation in the company's third
13 cycle of MEEIA. That data is
14 irrelevant here.

15 The deemed or assumed statistics
16 do not properly solve the problems.
17 Evergy provides no work papers or
18 documentation to support its
19 assumptions on the benefits or
20 measuring curtailment.

21 Without the ability to properly
22 verify the baseline, there can be no
23 proper way to verify benefits.
24 Therefore, this stipulation cannot
25 support manageable and verifiable

1 energy savings in accordance with
2 MEEIA.

3 However, the problems do not end
4 there. MEEIA requires the Commission
5 fairly apportion the costs and benefits
6 of demand side programs to each
7 customer class. This stipulation does
8 not do that. The stipulation has
9 everyone but Evergy and Nucor paying
10 the costs.

11 Nucor's SIL tariff clearly
12 states that the SIL contract shall
13 collect at least the incremental costs
14 incurred by the company to serve the
15 customer, explicitly stating that all
16 the charges for service under this rate
17 schedule shall be limited to the
18 charges contained in the contract
19 between the company and the customer.
20 There are no other parties to this
21 agreement.

22 The SIL tariff states that
23 nonparticipating customers, that is
24 everyone else, shall be held harmless
25 from any deficit in revenues from

1 serving Nucor and that the company will
2 make adjustments to cover the
3 shortfalls so that non-schedule SIL
4 customers are held harmless.

5 There lies the root of another
6 problem. The costs associated with
7 Nucor's participation in MEEIA, such as
8 administrative costs, earnings
9 opportunities and incentives to Nucor,
10 are being dumped on the other
11 ratepayers.

12 There are some of the costs of
13 -- these are some of the costs of
14 serving Nucor and the SIL tariff
15 explicitly forbids them from being paid
16 by anyone else.

17 Staff witness Jordan Hull
18 provides testimony that Nucor can
19 participate in demand side programs
20 outside of MEEIA, programs that are not
21 funded by ratepayers, such as the
22 regional demand response program
23 through the Southwest Power Pool, or
24 SPP.

25 But as I started when -- I

1 stated when I started, staff of the
2 Commission -- this Commission supports
3 approval of the stipulation between
4 Evergy and Nucor so long as it is
5 amended to be in compliance with MEEIA
6 and the hold harmless provisions of the
7 SIL, not before.

8 Evergy offers problems disguised
9 as solutions. An expiration of the
10 program after it's been proven to cost
11 more than it's worth doesn't make
12 ratepayers whole. Neither will
13 limitations on the earnings opportunity
14 or how Evergy gets its accreditation.
15 The stipulation doesn't offer a path to
16 make ratepayers whole after the fact.

17 As I previously stated, Nucor's
18 load is volatile and unpredictable.
19 The Commission can mitigate the risk by
20 establishing a firm cap or firm service
21 level for Nucor --

22 (Court Reporter clarification.)

23 MR. CUNNEEN: -- simply
24 identifying whether Nucor kept its load
25 below the cap during a qualifying

1 event. Exhibits 103 and 4 -- and
2 Exhibit 104 further offer guidance on
3 this.

4 The firm cap must be set at a
5 level sufficient to produce a benefit
6 over cost. Once established, Evergy
7 must demonstrate that the actual demand
8 curtailment produces verified credit
9 resource adequacy with SPP in order to
10 show a benefit.

11 This includes demonstrating
12 Nucor's ability to curtail during week
13 -- winter peak periods and the
14 accounting for Nucor's future peak
15 demand.

16 The benefit must then be
17 compared to all the costs of serving
18 Nucor through MEEIA, as the SIL tariff
19 requires. This includes administrative
20 and incentive costs.

21 There must be an all cost net
22 benefit calculation. Anything short of
23 this would allow Evergy to punt the
24 unaccounted costs to other ratepayers.

25 Lastly, the Commission must

1 include a clawback provision that
2 ensures Evergy credits or refunds
3 nonparticipating customers in
4 accordance with the SIL to hold
5 ratepayers harmless.

6 Evergy bears the burden of
7 showing Nucor's participation in MEEIA
8 would be cost effective, beneficial to
9 all and in adherence with the hold
10 harmless provisions.

11 Evergy fails to demonstrate that
12 the stipulation does that. Staff
13 offers solutions that adheres to MEEIA
14 and the hold harmless provisions,
15 establish a firm cap, require
16 compliance with SPP for credit and
17 benefit verification and insert
18 clawback mechanism to hold ratepayers
19 harmless.

20 Staff witness Mark Kiesling
21 provides testimony --

22 (Court Reporter clarification.)

23 MR. CUNNEEN: Staff witness Mark
24 Kiesling provides testimony on
25 benefits, costs, incentives and avoided

1 capacity.

2 Staff witness Justin Tevie
3 provides testimony on the baseline
4 volatility, load curtailment, capacity
5 costs and the hold harmless provisions
6 of the SIL and the conditions the
7 Commission should order for Nucor to
8 participate in MEEIA.

9 Staff witness Jordan Hull
10 provides alternative demand side
11 programs, SPP compliance and staff's
12 recommended amendment for Nucor's SIL
13 agreement permitting Nucor to
14 participate in demand response outside
15 of MEEIA.

16 Evergy stands to earn up to
17 \$200,000 and Nucor over a million, all
18 that at the expense of ratepayers
19 outside of its class, all without proof
20 of any benefit to those same people
21 paying the costs.

22 Evergy has failed to meet its
23 burden of proof. Staff of the
24 Commission asks that the Commission
25 approve the amendment to schedule SIL

1 allowing Nucor to participate in BDR
2 programs outside MEEIA or, in the
3 alternative, permit Nucor to
4 participate in MEEIA subject to the
5 conditions offered by staff witness
6 Justin Tevie.

7 Thank you.

8 JUDGE SEYER: Are there any
9 questions from the Commissioners?

10 All right, thank you.

11 Mr. Clizer.

12 MR. CLIZER: Good morning.

13 Can you hear me?

14 COURT REPORTER: Yes, sir.

15 MR. CLIZER: Good morning. John
16 Clizer on behalf of the Missouri Office
17 of the Public Counsel.

18 I'd like to start this morning
19 by taking just a moment to sort of
20 reorient this case a little bit because
21 predictably, I think, after listening
22 to three other openings, there's been a
23 lot of focus placed on the benefits
24 that come with demand response
25 programs.

1 And I want to make sure it's
2 very clear to everybody that this case
3 is not about whether or not demand
4 response programs are good or bad, nor
5 is this case about whether Nucor should
6 be participating in demand response
7 programs.

8 This case really comes down to a
9 singular issue, which is should Nucor
10 be participating in MEEIA demand
11 response programs. And by MEEIA I mean
12 Missouri -- sorry, Missouri Energy
13 Efficiency Investment Act.

14 And the reason I say that's the
15 only issue is because there are viable
16 alternatives for Evergy and for Nucor
17 specifically to participate in demand
18 response programs.

19 Now, I have committed what I
20 consider sort of the cardinal sin of
21 presentations. I've just thrown a
22 whole wall of text up there. Instead
23 of trying to read it out loud, I'm just
24 going to give you a second to take a
25 gander at that. Feel free to read it

1 for just a second.

2 This testimony -- I don't know
3 if I'm going too fast here. This
4 testimony is taken from staff Hull's
5 rebuttal and it outlines at least three
6 or -- two or three, however you want to
7 count, viable alternatives for Nucor to
8 participate in demand response
9 programs.

10 They can either do that through
11 SPP offered options directly or through
12 what are called aggregators of retail
13 customers, or ARCs. And effectively
14 the OPC's position is that instead of
15 using MEEIA, we should be using these
16 alternatives.

17 And the rest of this
18 presentation is pretty much just going
19 to be me going through and explaining
20 the differences between these two, the
21 benefits and the detriments, and
22 explaining why we believe the
23 alternatives are superior.

24 So, I'm going to start with
25 resource adequacy because that was a

1 topic that was touched on very heavily
2 by Evergy. Evergy already identified
3 the need for resource adequacy --
4 meeting resource adequacy goals and how
5 business demand response programs can
6 achieve that.

7 However, Evergy came up here and
8 told you that the alternatives being
9 offered by staff and OPC would not meet
10 those resource adequacy requirements,
11 and I'm afraid to say that is a flat
12 false statement.

13 If you look at the actual
14 testimony offered by Evergy's own
15 witness, per their discussions with
16 SPP, Evergy as a load responsible
17 entity can utilize Evergy market
18 registered DR programs, and those are
19 the same programs that were referenced
20 by Jordan Hull just a couple slides ago
21 in their resource adequacy workbooks.
22 They can use these alternatives to meet
23 resource adequacy. That is Evergy's
24 own statement.

25 Now, Mr. Meitner, I hope I

1 pronounce that correctly, goes on to
2 state that there are no current
3 programs for these alternatives and
4 that without using a -- without being
5 run through a program with the LRE,
6 Evergy, they wouldn't be able to count.

7 Well, that's true, but it's also
8 a very easy problem to fix. Just
9 create the program. All you need to do
10 is register these participants, either
11 the ARCs, or Nucor if it wishes to
12 participate individually, with Evergy
13 with the SPP and you will be able to
14 utilize them for resource adequacy
15 purposes. That's again per Evergy's
16 own statement.

17 So as we go to that -- back to
18 that chart, that first line, they're
19 both checked. Both MEEIA and the SPP
20 or ARCs will provide resource adequacy
21 moving forward.

22 And I want to point out that
23 that's only for 2027. It is important
24 to note that we've actually already
25 missed the deadline for inclusion of

1 any of these programs for the 2026
2 period. So this is actually starting
3 as of 2027. But the point here is that
4 both of these options will meet the
5 resource adequacy goal.

6 Next up is competition. Now,
7 why do I bring up competition? Well,
8 if you were to ask me, the goal of this
9 Commission writ large is effectively to
10 serve as a proxy for the market.

11 And when I say serve as a proxy
12 for the market, your goal, I believe,
13 should be, whenever possible, to
14 emulate or at least promote
15 competition.

16 And you can see here a quote
17 from OPC witness Dr. Marke who states
18 as much and he actually quotes the
19 known and famous economist Alfred Kahn
20 who states, Whenever competition is
21 feasible, it is, for all its
22 imperfections, superior to regulation
23 as a means of serving the public
24 interest. So this Commission should
25 want to promote competition.

1 And by the way, it's not just
2 Dr. Marke. You have here a quote taken
3 from a joint letter from the
4 U.S. Department of Justice and the
5 Federal Trade Commission of the Supreme
6 Court of Tennessee which again extols
7 the virtue of competition.

8 This is what we should be
9 promoting. This should be the central
10 goal of the Commission, is to promote
11 and improve competition.

12 And if that wasn't enough, take
13 a look at your own mission statement
14 where you twice refer to competition
15 being something that you wish to
16 promote within this state as part of
17 your mission as a Commission.

18 So why am I harping so much on
19 competition? Well, because what we
20 have in front of us is an actual,
21 genuine chance to actually promote
22 competition in this state.

23 ARCs, which again, aggregators
24 of retail choice, might be wrong on
25 that, represent true market-based

1 alternatives that allow for competition
2 in the state on the demand side
3 management front.

4 This is an opportunity for you
5 to fulfill your own mission statement,
6 to fulfill the goal of this Commission
7 and to allow for competition in the
8 state.

9 If, however, you allow Evergy to
10 run these demand response programs
11 through MEEIA, you're going to be
12 killing competition because what
13 third-party competitor would want to
14 compete with a utility who has the
15 backing of captive ratepayer funding to
16 run their programs? No one would.

17 So if you truly want to promote
18 competition in the state, you need to
19 allow for ARCs to participate, and in
20 this case that means saying no to the
21 application.

22 Let's next talk about cost
23 savings. So using one of the
24 alternatives we've described, either
25 through the SPP direct participation or

1 through ARCs, we are going to save
2 ratepayers money.

3 First we are going to have to
4 avoid paying Nucor out of the MEEIA
5 budget. You already heard staff
6 counsel explain that that cost is
7 roughly a million dollars. We also do
8 not need to include them in our EM&V.

9 Now, I want to point out that
10 the existing EM&V contract was set up
11 on the assumption that Nucor was not a
12 participant. It's the OPC's position
13 that if you include Nucor as a
14 participant going forward, we'll need
15 to renegotiate that EM&V contract,
16 which could theoretically lead to
17 increased costs.

18 We would like to avoid doing
19 that, which is why we believe that not
20 including them and keeping the existing
21 EM&V contract is in the customers' best
22 interests.

23 Finally, we have to -- we can
24 avoid having to pay an earnings
25 opportunity, i.e. profit, to Evergy to

1 account for Nucor's participation. So
2 based on those, we again see we have
3 cost savings using our alternatives.

4 But I want to come back to this
5 for just a second because it's that
6 last point that really -- you need to
7 understand that's what's driving this
8 entire case.

9 The reason that we're here right
10 now is pretty much down exclusively to
11 the fact that Evergy feels entitled to
12 the earnings opportunity that it would
13 earn through MEEIA.

14 And the only way it earns that
15 earning opportunity in this case is if
16 Nucor participates through MEEIA. If
17 it doesn't, if it participates either
18 directly in the SPP or through an ARC,
19 Evergy won't have that earnings
20 opportunity.

21 And so that really is the main
22 question, in my opinion. It's is this
23 Commission going to allow Evergy to
24 operate as an expensive and unnecessary
25 middleman, jacking up costs by running

1 the program through MEEIA, or can we
2 use one of these alternatives which
3 already exists and reduce costs
4 accordingly? I think the option or the
5 answer is exceptionally clear.

6 I have two more things on my
7 little grid. The first is the
8 violation of the hold harmless
9 provision. This has obviously been
10 sort of touched on a bit, so I'm going
11 to give you a very high level, very
12 simplified explanation.

13 Evergy's SIL tariff says that
14 nonparticipating customers shall be
15 held harmless from any deficit in
16 revenues provided by any customer
17 served under this tariff.

18 By participating in the MEEIA
19 program, Nucor will get a discounted
20 bill while other ratepayers do not. A
21 discounted bill results in a deficit in
22 revenues, hence the violation.

23 I'm going to be honest. That is
24 a probably gross oversimplification,
25 but again, I wanted to present a

1 simplified version of this. And also,
2 while we've noted, Nucor will not be
3 paying any part of the MEEIA program
4 costs, that DSIM charge.

5 I do want to take just a moment
6 to respond to something that was said
7 earlier. Evergy in its opening made a
8 great deal of the fact that staff and
9 the OPC seemed to be wanting to treat
10 Nucor differently.

11 And I want to stress to you,
12 Nucor is treated differently because
13 Nucor fought tooth and nail to get its
14 own tariffed rates. It has the SIL
15 tariff. It is the only one on the SIL
16 tariff.

17 So for them to come in and fight
18 hard to be treated differently and then
19 complain because they're being treated
20 differently seems hypocritical, in my
21 opinion.

22 But I digress. Getting back to
23 this grid, you can see participating in
24 MEEIA will potentially result in tariff
25 violations because of the hold harmless

1 provision whereas if they participate
2 through SPP or ARCs, we can avoid that.

3 The last issue is the accuracy
4 problem, and I'm going to be honest,
5 this is a complex issue, it's addressed
6 at length in staff testimony. I don't
7 want to get too deep into the weeds.

8 So instead I'm just going to
9 give you a brief excerpt from staff
10 witness Tevie who explains that from
11 staff's opinion, there are problems
12 determining the accuracy of Nucor's
13 load and that that will have knock-on
14 effects improperly measuring the amount
15 of demand savings that are generated.

16 Now, I want to again stress to
17 you, your staff doesn't have a dog in
18 this fight, by which I mean if it tells
19 you it has accuracy problems, it's not
20 trying to -- it doesn't have a profit
21 motive. Everygy, on the other hand,
22 clearly has a profit motive.

23 So I ask you to keep that into
24 consideration and please give due
25 diligence to the fact that your staff

1 is saying they believe there's a
2 legitimate problem to accurately
3 measuring the load of this customer and
4 that will have an effect on MEEIA.

5 So again, we add that last
6 checkmark. And as you can see from
7 this graph, there are substantially
8 better alternatives in place from using
9 Evergy's existing MEEIA.

10 I want to summarize here really
11 quick. As I already said, there are
12 better alternatives. Nucor's
13 participation will most likely violate
14 the hold harmless provision, and there
15 are fundamental problems to applying
16 the MEEIA framework to Nucor
17 accurately.

18 Really quick, just to look
19 forward on a couple of things, this is
20 something I just want the Commission to
21 sort of be aware of.

22 SPP has submitted tariff
23 provisions for demand response programs
24 to FERC, and those rules are under
25 review. So this is something that

1 is actively being worked on by the
2 FERC.

3 Also, I want to again -- there
4 was discussion earlier, Evergy has
5 massive load additions coming on, most
6 of those coming on from hyperscalers.
7 And frankly, those are going to
8 completely dwarf the impact that Nucor
9 has.

10 So what we're doing here, while
11 important, is largely going to be
12 rendered almost irrelevant if the
13 amount of load that we're expecting to
14 come on actually does come on.

15 And finally, I'd also just want
16 to reiterate that we have in fact
17 missed the deadline for 2026. I just
18 -- I want to make sure that that's very
19 clear to this Commission.

20 All right. So that brings me to
21 the very end. And again, I'll wrap up
22 on this last one.

23 We have an opportunity here to
24 do demand response but to do demand
25 response in a way that promotes

1 competition, that saves customers
2 money, that avoids having to muck about
3 or potentially violate the MEEIA tariff
4 and can avoid the accuracy problems
5 that are exhibit because as staff
6 explains in their testimony SPP has a
7 more rigorous verification process.
8 And the only thing it will cost is for
9 Evergy to not get its earnings
10 opportunity.

11 So the question before this
12 Commission really is literally just
13 this: Do you want Evergy to act as an
14 unnecessary and expensive middleman or
15 not?

16 With that, I'll ask if there's
17 any questions.

18 JUDGE SEYER: All right. Thank
19 you, Mr. Clizer.

20 Evergy, would you like to call
21 your first witness?

22 MR. STEINER: Yes. This is
23 Roger Steiner and we call JP Meitner.

24 JUDGE SEYER: Before we get into
25 Mr. Meitner's testimony, was that the

1 list -- the order of the list of
2 witnesses?

3 MR. STEINER: This is Roger
4 Steiner. It was not -- Ms. Nunn has a
5 travel issue and --

6 (Court Reporter clarification.)

7 MR. STEINER: Roger Steiner,
8 Everygy.

9 Ms. Nunn was scheduled to be
10 first, but the parties agreed she had
11 travel issues and she could be taken
12 out of order.

13 JUDGE SEYER: Okay. Do we know
14 when you expect her to testify?

15 MR. STEINER: Probably around
16 noon or -- she wasn't -- she was
17 traveling, so --

18 JUDGE SEYER: Okay.

19 MR. STEINER: But she'll be here
20 today.

21 JUDGE SEYER: All right, thank
22 you.

23 All right. Mr. Meitner,
24 would you raise your right hand,
25 please.

1 JP MEITNER,
2 (of lawful age, having been sworn, testified as
3 follows:)

4 MR. STEINER: This is Roger
5 Steiner again.

6 DIRECT EXAMINATION BY MR. STEINER:

7 Q. Please state your name for the record.

8 A. JP Meitner.

9 Q. Mr. Meitner, where do you work and what is
10 your position?

11 A. I work in Topeka, Kansas. My position is
12 director of market operations.

13 Q. And you're employed by Evergy; is that
14 correct?

15 A. That's correct.

16 Q. And did you cause to be filed in this case
17 surrebuttal testimony which has been
18 previously marked as Exhibit 5?

19 A. I did.

20 Q. Do you have any changes or corrections to
21 that testimony?

22 A. No.

23 MR. STEINER: Your Honor, at
24 this time I would offer Exhibit 5 into
25 the record and tender the witness for

1 cross-examination.

2 JUDGE SEYER: Right. Are there
3 any objections to the admission of
4 Exhibit 5?

5 MR. GRAHAM: None from staff.
6 Paul Graham speaking.

7 JUDGE SEYER: All right.
8 Exhibit 5 is admitted.

9 All right. For Nucor?

10 MR. BRISCAR: Joseph Briscar for
11 Nucor. We do not have any questions,
12 thank you.

13 JUDGE SEYER: Okay.
14 Mr. Graham.

15 MR. GRAHAM: Yes. This is Paul
16 Graham speaking.

17 CROSS-EXAMINATION BY MR. GRAHAM:

18 Q. Good morning, Mr. Meitner.

19 A. Good morning.

20 Q. I'm sure you were here and you heard the
21 opening statement made by Ms. Whipple?

22 A. I did.

23 Q. Okay. And you've heard the opening
24 statement also made by Mr. Clizer?

25 A. Yes.

1 Q. And both of them raised the issue that
2 staff and OPC appear to be asking the
3 Commission to treat Nucor differently than
4 other participants. You heard those
5 statements; is that right?

6 A. I'm sorry, can you repeat the question?

7 Q. You heard the opening statements to the
8 effect that staff and OPC, the Office of
9 Public Counsel, appear to be asking the
10 Commission unreasonably to treat Nucor
11 differently than other customers? You
12 heard that, did you not?

13 A. Yes, I heard the opening statements.

14 Q. Okay. Now, Nucor in fact is a steel
15 smelting company; is that right?

16 A. I believe that was what was said in the
17 opening statements.

18 Q. Do you know that to be the case?

19 A. I believe that to be the case.

20 Q. And in your investigations in this matter,
21 acting on behalf of Evergy, you know that
22 to be the case, that Nucor is a steel
23 smelting company?

24 A. That's correct.

25 Q. And you are aware that one of the main

1 threshold gateway issues in this case is
2 the problem of setting a baseline for all
3 calculations that are going to be made with
4 respect to detriments or burdens that this
5 program, this proposed program may cause?

6 MR. STEINER: I'm going to
7 object that that asks for a legal
8 conclusion.

9 (Court Reporter clarification.)

10 MR. STEINER: This is Roger
11 Steiner, Evergy.

12 I'm going to object. That
13 question asks for a legal conclusion
14 that hasn't been established -- that
15 this witness isn't prepared to answer.

16 JUDGE SEYER: Mr. Graham.

17 MR. GRAHAM: Well, with respect
18 to issues, we have -- whether it's an
19 issue or not, we have listened to
20 several opening statements here where
21 no such objection was made as the
22 counsel for Evergy and Nucor both laid
23 out for the Commission the issues that
24 would be addressed here.

25 The questions that must be

1 answered here are not entirely legal,
2 they are factual. In fact, in order to
3 get to the legal issue, you have to go
4 through the gateway of the factual
5 issue, and that's what I'm asking this
6 witness.

7 A baseline is not a legal
8 question. A baseline for the
9 calculation of the effects of a program
10 is at the -- at the threshold and in
11 fact at every step all the way through
12 a factual question followed by factual
13 and factual questions.

14 JUDGE SEYER: I'll overrule the
15 objection.

16 Q. (By Mr. Graham) All right. Now, you are
17 aware, I assume, sir, or tell me if you are
18 aware, that the load, the electrical or
19 power load that Nucor presents at any
20 moment or over a span of any particular
21 time in its smelting process is very
22 volatile, it jumps up and down?

23 A. I'm -- I'm not familiar with the volatility
24 of -- of their load. I -- I could speak to
25 the requirements of SPP around proof of the

1 validity of a load for demand response --

2 Q. All right.

3 A. -- resource adequacy.

4 Q. Okay. But with respect to this particular
5 customer and its volatile load, you're not
6 prepared to testify?

7 A. I'm not prepared to speak to Nucor's
8 volatility or lack thereof and their --

9 Q. Okay. And you're not prepared to testify,
10 therefore, concerning why Nucor might be
11 cut out of the pack and looked at a little
12 bit differently than any other customer on
13 account of baseline problems?

14 MR. STEINER: Object; asked and
15 answered. He said he's not --

16 (Court Reporter clarification.)

17 MR. STEINER: Roger Steiner with
18 the company, Evergy.

19 Asked and answered. This
20 witness said he is not prepared to
21 answer questions about Nucor's load
22 characteristics.

23 Q. (By Mr. Graham) Do you know --

24 JUDGE SEYER: I'll sustain the
25 objection.

1 Q. (By Mr. Graham) Okay. Do you know of any
2 other witness who will be testifying in
3 these proceedings on behalf of Evergy that
4 would be prepared to answer those questions
5 about Nucor's particular challenges or the
6 challenges that it presents in establishing
7 a baseline for calculating whether in fact
8 Nucor would be bringing anything positive
9 to the table? Do you know of any other
10 witnesses that Evergy's got?

11 A. I believe the best witness to speak to the
12 measurement and verification of Nucor load
13 would be witness File.

14 MR. GRAHAM: All right, that's
15 all the questions staff has.

16 JUDGE SEYER: All right.

17 Mr. Clizer, do you have
18 questions?

19 MR. CLIZER: No, your Honor,
20 thank you.

21 JUDGE SEYER: All right. Do the
22 Commissioners have any questions?

23 Chair Hahn.

24 CHAIR HAHN: Good morning,
25 Mr. Meitner.

1 THE WITNESS: Good morning.

2 CHAIR HAHN: It's my
3 understanding that staff and OPC's
4 primary contention is that they prefer
5 Evergy and Nucor to use the SPP
6 programs or ARC programs.

7 In your surrebuttal testimony,
8 you discuss why perhaps participation
9 in the SPP programs don't provide all
10 the benefits. Can you please explain
11 what that means and how SPP operates
12 those programs, please?

13 THE WITNESS: Sure. So in my
14 surrebuttal testimony, I was really
15 speaking to the concept from SPP's
16 perspective about how those programs
17 would work from a resource adequacy
18 perspective.

19 What I pointed out was that
20 based on Evergy's tariffs, that the
21 only option to participate is the MEEIA
22 BDR. Just pointing out some of the --
23 the challenges with the other programs,
24 starting with ARC as an example, is
25 that that aggregator of load would

1 still need to be a vendor of Evergy
2 Missouri West, meaning they would sell
3 that demand response aggregation to the
4 Missouri West portfolio. That would
5 then be included in the resource
6 adequacy workbook.

7 Otherwise, if it is not in
8 Evergy's -- Missouri West's workbook,
9 it cannot be claimed towards resource
10 adequacy regardless of where the
11 customers reside, the service territory
12 or anything else. So there's still
13 that -- that cost because that
14 aggregator is looking to be paid for
15 that -- that aggregation of demand
16 response.

17 The MB -- or, I'm sorry, the SPP
18 demand response programs, the
19 dispatchable and the block, again can
20 qualify for resource adequacy but again
21 that is not in Evergy's tariff.

22 The MBDR where it's suggested
23 that that would reside is really --
24 really a supplement to the MEEIA
25 program, which is where the demand --

1 or, I'm sorry, where the resource
2 adequacy resides, and the MBDR program
3 is really designed to participate in
4 the energy and ancillary markets and
5 not for resource adequacy.

6 CHAIR HAHN: So I want to make
7 sure that I fully understand this. If
8 Nucor were to participate in one of
9 SPP's tariffs or through a third-party
10 aggregator that would then sell as SPP
11 or it's registered with SPP, Evergy
12 Missouri West would not get any
13 capacity accreditation for any -- for
14 Nucor as a resource?

15 THE WITNESS: Based on where it
16 is today and based on assuming that the
17 ARC would not be a vendor of Evergy
18 Missouri West, there would be no
19 resource adequacy benefit to the Evergy
20 Missouri West customer from those
21 programs.

22 CHAIR HAHN: Are there any
23 aggregators within Evergy Missouri
24 West?

25 THE WITNESS: I don't know for

1 sure if there are aggregators. I
2 assume there are, but I -- I cannot say
3 that for certain.

4 CHAIR HAHN: Thank you.

5 JUDGE SEYER: Are there any
6 other questions from the Commissioners?

7 CHAIR HAHN: One more question.

8 JUDGE SEYER: Oh. Chair Hahn.

9 CHAIR HAHN: Sorry.

10 The Commission had set a
11 standard of a hundred -- for larger
12 customers being able to participate
13 within a third-party aggregator. I
14 can't remember the exact megawatt
15 threshold. Would Nucor qualify under
16 that megawatt threshold to be an
17 eligible participant of a third-party
18 aggregator.

19 THE WITNESS: I don't know that
20 answer. I apologize. I -- I'm sure
21 someone with Evergy does.

22 CHAIR HAHN: Okay, thank you.

23 JUDGE SEYER: All right, thank
24 you, Chair Hahn.

25 I do have a question myself.

1 Are demand response calls under the
2 BDR, the business demand response
3 program, made during the summer?

4 THE WITNESS: Yes.

5 (Court Reporter clarification.)

6 JUDGE SEYER: Yes, this is Judge
7 Seyer.

8 And are those -- are there
9 business -- are business demand
10 response calls under the BDR program
11 made during the winter?

12 THE WITNESS: I believe witness
13 File would be able to speak more to the
14 specific mechanics of those call
15 opportunities.

16 JUDGE SEYER: Okay. Okay.

17 COURT REPORTER: Judge, if we
18 could take a break at some point in the
19 future, please.

20 JUDGE SEYER: Yes, after this
21 witness.

22 COURT REPORTER: Thank you, sir.

23 JUDGE SEYER: Does Nucor have
24 any recross?

25 MR. BRISCAR: Joseph Briscar for

1 Nucor. No.

2 COMMISSIONER MITCHELL: Judge,
3 if I may, I had a question or two as
4 well.

5 JUDGE SEYER: Oh, I'm sorry.
6 Commissioner Mitchell.

7 COMMISSIONER MITCHELL: Yes.
8 Thank you for your clarifications. I
9 am curious. In the alternative
10 participation pathways that have been
11 suggested, I'm assuming that there is
12 some cost involved in participation
13 either directly with Southwest Power
14 Pool or if the DR participation came
15 through an aggregator.

16 And I'm curious how those costs
17 are then recovered either by the
18 aggregator or by Southwest Power Pool
19 and then how they then translate to
20 cost to the ratepayers.

21 THE WITNESS: Yeah, that's a
22 good question. So as I said earlier,
23 first starting with the ARC program,
24 that aggregator would have an
25 expectation of compensation for the

1 program when they sold that to someone
2 that was looking for accredited
3 capacity.

4 I think it's important to
5 remember that in SPP there is not a
6 capacity market like maybe you would
7 think of in MISO or another RTO, and so
8 -- and a RTO with a capacity market,
9 there's a much smoother avenue for that
10 capacity to receive payment.

11 In SPP, because it's a capacity
12 obligation but not a capacity market,
13 there would then need to be a bilateral
14 transaction between the parties for
15 that accredited capacity to then hit in
16 this case the Evergy Missouri West
17 resource adequacy workbook.

18 COMMISSIONER MITCHELL: Okay.
19 And I think I also heard in OPC's
20 opening that for both SPP -- well,
21 maybe just for SPP is what I heard,
22 that FERC is working on the tariff
23 language that would address
24 participation directly with SPP.

25 So fair to say that those

1 programs aren't -- as we -- as we speak
2 today, those programs aren't available
3 or they're in some state of evolution
4 at this point?

5 THE WITNESS: Are you speaking
6 directly to SPP registered demand
7 response program or ARCs?

8 COMMISSIONER MITCHELL: Yes.

9 THE WITNESS: Asking if those
10 are available today? No, those --
11 those would be available today. I -- I
12 think the -- the point -- well, I
13 should think, but the -- the point made
14 earlier I think is around that -- that
15 there are a lot of changes going on at
16 SPP and other RTOs, for that matter,
17 around everything resource adequacy.

18 It's a -- a big topic at -- at a
19 lot of RTOs and I -- I think that it
20 was just pointing out that there's
21 continual conversation around the
22 evolution of resource adequacy at SPP.

23 COMMISSIONER MITCHELL: Okay,
24 thank you. I'm going to ask you to
25 generalize just a little bit. Given

1 the RTOs, you know, the impacts of
2 winter storm Fern on the RTOs, how do
3 you think the demand response programs
4 performed in terms of their reliability
5 and effectiveness?

6 THE WITNESS: Specifically for
7 SPP, I -- I believe that they've made a
8 lot of progress in the validation,
9 verification of demand response
10 programs really since winter storm Uri
11 where SPP realized post event that they
12 didn't have a -- a lot of visibility
13 into these programs.

14 And so I might say most notably,
15 again, where a lot of my testimony was
16 focused was on resource adequacy
17 treatment of this program and SPP has
18 taken great strides in the verification
19 of demand response programs to ensure
20 that those programs bring the benefit
21 that they're being accredited for in --
22 in the workbook.

23 So, you know, when -- when we
24 think about measurement and
25 verification for resource adequacy

1 purposes, Evergy Missouri West measures
2 it the exact same way that SPP does in
3 -- in the fact of determining whether
4 the program is -- is meeting the
5 potential that it set -- it brings.
6 And once that's confirmed by SPP prior
7 to that peak season, that value is
8 brought to the customer through the
9 workbook in a -- in a reduction of
10 demand response that would need to come
11 from somewhere else because those
12 megawatts are now showing up in that
13 workbook for that peak season.

14 And that's -- in every peak
15 season, there's a requirement to
16 continue to provide that documentation
17 and -- and whatever records that SPP
18 requires to -- to validate that that
19 program should indeed fall within the
20 workbook.

21 COMMISSIONER MITCHELL: Thank
22 you, Mr. Meitner. That helps me
23 understand. Appreciate your testimony.
24 Thank you.

25 JUDGE SEYER: Thank you,

1 Commissioner Mitchell. And Chair Hahn
2 has another question.

3 CHAIR HAHN: Yeah, I'm going to
4 follow Commissioner Mitchell's
5 questions.

6 SPP currently has a filing
7 pending at FERC to expand their demand
8 response programs. If that -- which
9 will be litigated. If that is
10 approved, the resources that are then
11 registered with SPP, would they count
12 toward the resource adequacy
13 calculation of Evergy Missouri West at
14 SPP?

15 THE WITNESS: Conceptually they
16 could and they could today. The -- the
17 -- the point that was made earlier is
18 that the only tariff program that --
19 that Evergy has available to -- to
20 participate in resource adequacy is
21 MEEIA.

22 CHAIR HAHN: Okay. Thank you.

23 JUDGE SEYER: All right. At
24 this point, let's do take a break and
25 then we will reconvene, let's say

1 10:35.

2 UNIDENTIFIED SPEAKER: I'm
3 sorry.

4 JUDGE SEYER: We will -- I mean
5 right now? Okay, okay. I'm sorry.

6 We are not going to break at
7 this time.

8 Mr. Briscar, do you have further
9 recross or any recross?

10 MR. BRISCAR: No recross.

11 JUDGE SEYER: All right.

12 Mr. Graham.

13 MR. GRAHAM: This is Paul
14 Graham. Yes.

15 Q. (By Mr. Graham) Picking up on the
16 questions from the Commissioners, the
17 program that we have before us will not
18 actually go into effect until 2027; is that
19 fair?

20 A. That's my understanding, is that the first
21 eligibility would be the summer of 2027
22 peak season in SPP.

23 Q. And you do acknowledge and you know, in
24 fact, as the Commissioner -- as the
25 Commissioners have pointed out, that there

1 are pending proposals before SPP to modify
2 tariffs and documents such that the
3 proposal that you have with Nucor would
4 qualify Evergy for credits within the SPP
5 program in the future if those measures
6 were adopted in tariffs by SPP? You're --

7 MR. STEINER: I'm going to
8 object --

9 (Court Reporter clarification.)

10 MR. STEINER: Roger Steiner,
11 Evergy.

12 I'm going to object. The
13 question made an inference that he knew
14 something based on what the
15 Commissioner said and --

16 MR. GRAHAM: No. May I respond?

17 JUDGE SEYER: Yes.

18 MR. GRAHAM: I didn't make any
19 inference. I asked him did he not
20 know, does he not know this to be the
21 case, that these things are pending
22 before SPP.

23 A. I understand that the filing is in front of
24 FERC on potential changes to SPP demand
25 response programs.

1 (Court Reporter clarification.)

2 (Indistinguishable.)

3 MR. GRAHAM: That's all the
4 questions I have.

5 JUDGE SEYER: All right,
6 Mr. Clizer, on behalf of Public
7 Counsel.

8 MR. CLIZER: Yes, your Honor,
9 thank you.

10 CROSS-EXAMINATION BY MR. CLIZER:

11 Q. Good morning. It's still morning.

12 A. Good morning.

13 Q. I would like to pick up on a couple of
14 questions that you received from the
15 Commission's Chair. And I'm going to do my
16 best here to paraphrase what I think was
17 the answer. If I get it wrong, please
18 correct me. I'm trying to do my best to
19 make sure I get this accurate.

20 You were effectively asked to give an
21 understanding of what the existing current
22 situation is with regard to resource
23 adequacy and I think that your answer was
24 that there are no existing Evergy tariffs
25 that would allow for direct participation

1 in the SPP except through MEEIA; is that
2 accurate?

3 A. The -- the point that I was making is that
4 the MBDR program is a -- a supplement to
5 the BDR program to participate in energy
6 and ancillary service markets and not for
7 resource adequacy.

8 Q. Okay. But let's go back to just the
9 general idea of can a customer like Nucor
10 participate directly in SPP demand response
11 programs and have that count towards
12 resource adequacy, and your answer was that
13 there are not existing tariffs that would
14 allow Evergy to count that customer for its
15 resource adequacy workbooks; is that
16 accurate?

17 A. Other than MEEIA BDR, correct.

18 Q. My question is, is there anything
19 preventing Evergy from creating a tariff
20 that would allow direct participation in a
21 manner that would allow a customer like
22 Nucor to count for resource adequacy
23 outside of MEEIA?

24 A. I can't answer that question. That would
25 be a better question for witness File.

1 Q. So at least to your knowledge, you're not
2 aware of anything that would prevent Evergy
3 from creating a new tariff that would allow
4 direct participation in SPP in a manner
5 that would allow a customer like Nucor to
6 be counted towards Evergy's resource
7 adequacy workbooks?

8 MR. STEINER: This is Roger
9 Steiner with Evergy.

10 And I'm going to object. This
11 question was asked and answered. The
12 witness said he didn't know and asked
13 that witness File be asked the
14 question.

15 MR. CLIZER: Well, if I may
16 respond, I do believe he said witness
17 File would be a better answer, but I
18 didn't hear the I don't know that part.
19 I would like to get the I don't know
20 that part on the record.

21 JUDGE SEYER: Right. I'll
22 overrule the objection.

23 A. Can you ask the question again?

24 Q. (By Mr. Clizer) Naturally. Are you aware
25 of anything that would prevent Evergy from

1 creating a tariff that would allow a
2 customer like Nucor to directly participate
3 in Southwest Power Pool's resource adequacy
4 demand response programs in a manner that
5 would count towards Evergy's resource
6 adequacy outside of MEEIA?

7 A. I don't know that answer.

8 Q. Thank you.

9 MR. CLIZER: No further
10 questions.

11 JUDGE SEYER: All right.

12 Mr. Steiner, do you have redirect?

13 MR. STEINER: A little bit, yes,
14 thanks. Roger Steiner, Evergy.

15 REDIRECT EXAMINATION BY MR. STEINER:

16 Q. You were discussing with counsel for staff
17 and counsel for OPC the resource adequacy
18 issue and whether Nucor could participate
19 at SPP, whether they could participate
20 through MEEIA. If Nucor is not allowed to
21 participate per MEEIA, what are -- what are
22 the options as far as paper capacity to
23 cover the resource adequacy?

24 A. So in Evergy's latest IRP, the 2026 IRP, it
25 -- it solves for meeting the load

1 obligation via multiple different capacity
2 types, owned generation, PPAs, demand
3 response programs, new build, et cetera,
4 and -- and I would say that what I do know
5 about that is that when you look at the
6 MEEIA BDR all-in costs in the IRP -- latest
7 IRP is that those costs are lower than the
8 assumed paper capacity options for the next
9 several years, '27 through '29 time frame.

10 Q. And you talked about the amendment that
11 we're here today to get approved and is
12 your understanding that that is so Nucor
13 could participate in all DR programs?

14 A. Can you repeat the question?

15 Q. The amendment that we're here trying to get
16 approval for, would that allow
17 participation by Nucor in the entire suite
18 of DR programs that Evergy has, not just
19 MBDR?

20 A. The amendment that we are talking about
21 would allow for Nucor to participate in the
22 demand response program that Evergy has
23 available to customers.

24 Q. Okay. You were asked by counsel for staff
25 if you listened to the opening statements

1 and you said yes.

2 A. I did listen.

3 Q. Do you -- do you recall Mr. Clizer saying
4 that there was an easy fix or --

5 MR. CLIZER: I'm going to object
6 --

7 (Court Reporter clarification.)

8 MR. CLIZER: I was about to say
9 John Clizer. Apologies.

10 He's attempting to expand the
11 scope of the cross-examination by just
12 referencing opening arguments outside
13 of what was actually discussed on
14 cross-examination.

15 MR. STEINER: He was asked if he
16 listened to it. He said he did. And
17 then he was asked several questions
18 about the openings, including your
19 openings, and so I'm --

20 MR. CLIZER: There needs to be a
21 specific cross question tied to the
22 issue that he wants to redirect on, not
23 just a vague reference to the fact that
24 openings were discussed.

25 MR. STEINER: Well, I was trying

1 to do that and then you objected.

2 JUDGE SEYER: I'll sustain the
3 objection.

4 MR. STEINER: That's all I have.
5 Thank you.

6 JUDGE SEYER: All right. At
7 this point, let's take a break. We
8 will reconvene at 10:45. Going off the
9 record.

10 (Whereupon, a break was taken.)

11 JUDGE SEYER: We are back on the
12 record and, Evergy, call your next
13 witness.

14 MS. WHIPPLE: Company calls to
15 the stand Brian File.

16 JUDGE SEYER: Good morning,
17 Mr. File. Would you raise your right
18 hand, please. Thank you.

19 BRIAN FILE,
20 (of lawful age, having been sworn, testified as
21 follows:)

22 MS. WHIPPLE: This is Jackie
23 Whipple for the company.

24 DIRECT EXAMINATION BY MS. WHIPPLE:

25 Q. Would you please state your name?

1 A. It is Brian File.

2 Q. By whom are you employed?

3 A. Evergy.

4 Q. What is your position there?

5 A. My position is director of demand side
6 management programs.

7 Q. In this case, on behalf of Evergy Missouri
8 West, did you prepare and cause to be filed
9 public and confidential direct testimony,
10 public and confidential surrebuttal
11 testimony and have you offered supporting
12 testimony for the May 18 stipulation and
13 agreement?

14 A. I did and I have.

15 Q. Do you have any corrections to your direct
16 surrebuttal or supporting testimony?

17 A. Not at this time.

18 Q. If I were to ask you the questions in each
19 of those testimonies, would your answers be
20 the same?

21 A. Yes.

22 Q. Are those answers true and correct to the
23 best of your knowledge and belief?

24 A. Yes.

25 Q. And to your understanding, is your direct

1 testimony (public) labeled as Exhibit 1,
2 direct testimony (confidential) labeled as
3 Exhibit 2, surrebuttal testimony (public)
4 labeled as Exhibit 3, surrebuttal testimony
5 (confidential) labeled as Exhibit 4,
6 testimony in support of non-unanimous
7 stipulation and agreement, Exhibit 7, and
8 is the non-unanimous stipulation and
9 agreement that goes with that supporting
10 testimony labeled as Exhibit 8?

11 A. Sounds correct.

12 MS. WHIPPLE: All right, your
13 Honor, at this time, I would move to
14 admit, please, Exhibits 1, 2, 3, 4, 7
15 and 8.

16 JUDGE SEYER: 1, 2, 3, 4, 7 and
17 8.

18 MS. WHIPPLE: That's correct.

19 JUDGE SEYER: Okay. Are there
20 any objections?

21 MR. GRAHAM: Your Honor, Paul
22 Graham speaking for staff.

23 In our filing, we -- in our
24 filing and response to the
25 non-unanimous stipulation, we indicated

1 that we did not object conditioned upon
2 staff's being granted permission to
3 file its testimony.

4 And that testimony to which I
5 refer we're going to call 105, but it
6 was pre-filed, so to speak, as a
7 attachment to staff's response to the
8 request to approve the non-unanimous
9 stipulation.

10 So we do not object subject to
11 the Commission's order affirmatively
12 allowing our testimony to come in at
13 this time.

14 And at this time, I would for
15 the record tender for admission as an
16 exhibit, and we would call it 105, the
17 attachment that staff made in the EFIS
18 file when it attached that testimony as
19 an exhibit to our suggestions in
20 response to the non-unanimous
21 stipulation.

22 MS. WHIPPLE: Your Honor, may I
23 respond?

24 JUDGE SEYER: Yes.

25 MS. WHIPPLE: I don't think that

1 we're going to have a problem with
2 staff's testimony ultimately being
3 admitted, but it needs to be admitted
4 with a sponsoring witness, not at this
5 time with the company's witness.

6 JUDGE SEYER: All right, that's
7 fine.

8 MR. CLIZER: Your Honor, I just
9 want to point out that I also have an
10 objection. This is John Clizer --

11 (Court Reporter clarification.)

12 MR. CLIZER: This is John Clizer
13 speaking.

14 But I wanted to -- I didn't know
15 how quickly you were going to rule, so
16 I just wanted to make sure you know
17 that I also have an objection.

18 JUDGE SEYER: And what is your
19 objection?

20 MR. CLIZER: So on May 21st, the
21 Office of Public Counsel filed a
22 response to the company's motion for
23 leave to file additional testimony and
24 included in that an objection to said
25 testimony, and I would renew the

1 objection to the testimony which has
2 been offered as Exhibit 7 for all the
3 reasons laid out in our filed motion as
4 of May 21st.

5 I can recitate the high level of
6 what those are. It was a fairly
7 lengthy objection motion.

8 JUDGE SEYER: All right. I
9 don't know that that's necessary at
10 this time.

11 And I'll withhold ruling on the
12 admission of Exhibit 7 at this time. I
13 will admit Exhibits 1, 2, 3, 4 and 8.
14 As well as Exhibit 105. I mean I'll
15 hold off on ruling on Exhibit 105.

16 MS. WHIPPLE: Thank you, Judge.

17 At this time we will tender the
18 witness for cross-examination.

19 JUDGE SEYER: All right.
20 Mr. Briscar.

21 MR. BRISCAR: No questions,
22 thank you.

23 JUDGE SEYER: Okay. Mr. Graham.
24 Oh, I'm sorry, Mr. Pringle.

25 MR. PRINGLE: Yes, thank you,

1 Judge.

2 This is Travis Pringle on behalf
3 of staff.

4 CROSS-EXAMINATION BY MR. PRINGLE:

5 Q. Good morning, Mr. File.

6 A. Good morning.

7 Q. Now, I just have a few questions for you,
8 first kind of about your testimony in
9 general. Your testimony is in support of
10 the -- well, Evergy's position and the
11 stipulation and agreement, correct?

12 A. Correct.

13 Q. And part of your support for both Evergy's
14 position and the stipulation includes the
15 economic assumptions underlying said
16 agreement, correct?

17 A. It -- it includes a financial analysis that
18 would go along with that stipulation,
19 correct.

20 Q. And part of that would also include
21 projected costs, projected load
22 characteristics and projected customer
23 participation assumptions?

24 A. Maybe make sure I'm talking about the same
25 thing that you're suggesting. The

1 financial analysis would be a
2 post-participation analysis.

3 Q. Right. But I guess part of your testimony
4 involves how that would carry forward if
5 Nucor were to participate in MEEIA?

6 A. Right. So the -- the participation would
7 be conditional in 2027 and then if they
8 were to participate beyond that, then it
9 would go underneath the normal M&V process
10 that would be post as well, 2029.

11 Q. And while you're bringing that up, the
12 current MEEIA Cycle 4, that was approved at
13 least for Evergy West in EO-2023-0370,
14 correct?

15 A. Sounds right, 69 and 70, one of those two.

16 Q. And under the non-unanimous stipulation and
17 agreement that was approved by the
18 Commission, the Evergy Missouri West demand
19 response will -- MEEIA business demand
20 response program is currently scheduled to
21 expire at the end of 2027, correct?

22 A. Correct.

23 Q. But the stipulation and agreement if
24 approved by the Commission would permit
25 Nucor participation through the end of

1 2029?

2 A. The stipulation and agreement is tied to
3 one of the amendments that would need to be
4 approved, which the amendment ties to the
5 SIL contract, which is -- runs through
6 2029. The stipulation is tied to
7 conditional performance in 2027 and then
8 participation thereafter underneath what
9 tariffs are available under MEEIA, which --

10 Q. But if the MEEIA business demand response
11 program were to expire at the end of 2027,
12 there is no carve-out in the stip that
13 would let that program exist just for
14 Nucor, is that a fair description?

15 A. There's no specific language to that in the
16 stipulation.

17 Q. And then also as part of the company's
18 support for Nucor participating in MEEIA,
19 that involves the usage of avoided costs;
20 is that correct?

21 A. The financial analysis would assume a
22 avoided cost based on our MEEIA Cycle 4
23 approved programs.

24 Q. And just for the record, what is an avoided
25 cost?

1 A. Avoided costs/benefit, those terms get used
2 together similarly, but those are a -- an
3 assumption around having to do something
4 otherwise, invest in another supply side
5 resource other than the demand side
6 resource that -- that is being employed.

7 (Court Reporter clarification.)

8 A. Sorry. Energy efficiency and demand
9 response or both -- and both, yeah.

10 Q. (By Mr. Pringle) And then the -- this is
11 currently the fourth MEEIA cycle that
12 Evergy has administered, correct?

13 A. Correct.

14 Q. And the previous MEEIA cycle was approved
15 in EO-2019-0132, does that sound correct?

16 A. Sounds right. I think it was two numbers
17 again, but, yeah, yeah.

18 Q. And then at least for that MEEIA cycle,
19 there was an ordered avoided cost number,
20 correct?

21 A. That was a contentious issue in that case
22 that then became very specific in the
23 order, correct.

24 Q. Now, for the Commission orders approving
25 the stipulation agreements for MEEIA

1 Cycle 4, there was no explicit avoided cost
2 number that was ordered, correct?

3 A. They did not insert an avoided cost number
4 in the order.

5 Q. And then do you have a copy of your
6 surrebuttal testimony up there with you?

7 A. Yeah, I think so.

8 Q. When you get a chance, go to page 3, lines
9 14 and 15. Let me know when you're there.

10 A. I think I'm -- I'm there.

11 Q. All right. And do you see the phrase that
12 says, and I quote, While not explicit in
13 the way MEEIA Cycle 3 was outlined in the
14 order, implicitly the MPSC approved the
15 avoided cost by approving the Cycle 4
16 stipulation and agreement, end quote?

17 Do you see that?

18 A. I do.

19 Q. And so I guess just to kind of paraphrase
20 that, there is no explicit approved avoided
21 cost number for MEEIA Cycle 4?

22 MS. WHIPPLE: Object to the
23 extent it calls for a legal conclusion.

24 MR. PRINGLE: I'm simply asking
25 the witness to confirm that there is no

1 avoided cost number ordered by the
2 Commission.

3 MS. WHIPPLE: Same objection.

4 MR. PRINGLE: Thank you, Judge.

5 JUDGE SEYER: I'll overrule the
6 objection.

7 A. There -- it was not explicit in the way
8 MEEIA Cycle 3 was --

9 (Court Reporter clarification.)

10 A. -- the MEEIA Cycle 3 order was.

11 Q. (By Mr. Pringle) And also is it your
12 understanding that the other signatories to
13 the agreement understood that the
14 Commission was implicitly approving the
15 avoided cost within the company's MEEIA
16 Cycle 4 application?

17 A. I don't know that I could speak for what
18 they thought, if it was implicit or
19 explicit, if that was your question.

20 Q. Yes, thank you, Mr. File.

21 Now, I kind of want to talk a little
22 bit more about the costs involved with
23 Nucor and its volatility. Would you agree
24 with me if I say that Nucor is a unique
25 customer for Evergy?

1 A. I think that's fair.

2 Q. And now also would you agree that Nucor is
3 a very large customer for Evergy?

4 A. They historically have been very large.

5 Q. And would you characterize their load as
6 materially different from, let's say,
7 commercial customers?

8 A. What's an example of a commercial customer
9 that you're speaking of?

10 Q. Let's think about a Wal-Mart.

11 A. Yes, Nucor would be different in terms of
12 electric profile usage than a Wal-Mart,
13 correct.

14 Q. And really would you say that Nucor's load
15 profile differs from other industrial
16 customers served by Evergy Missouri West?

17 A. I would say that -- it depends on how far
18 you want to slice the different types of
19 customers that are industrial customers in
20 terms of what they manufacture, how their
21 processes are set up and ultimately how
22 much energy intensive they are.

23 You could probably granularly slice up
24 that industrial processes quite thin, but
25 to my knowledge, we don't have anyone to

1 the size or -- basically to the size and --
2 and arc furnace the way Nucor is, if
3 that's --

4 Q. And then just kind of speaking on that arc
5 furnace, Nucor's operations are highly
6 dependent on when they need to produce
7 steel; is that fair to say?

8 A. It would be a little bit of a guess at that
9 point in time. I mean, right, they're --
10 they're to make steel, so, therefore, when
11 they're operating, they're making steel.
12 I'm not sure I'm following you.

13 Q. So is it a reasonable inference that their
14 operations are primarily based on when they
15 need to make steel?

16 A. Sure.

17 Q. Now, when it comes to the energy needed to
18 process this steel, it's fair to say Nucor
19 can ramp up pretty quick?

20 A. I don't know that I could speak to that.

21 Q. I guess then when Nucor does need to be in
22 full operation, it carries with it a
23 significant load in the eyes of Evergy
24 Missouri West?

25 A. When Nucor's operating, they -- they have a

1 significant load, sure.

2 Q. And that load, is it fair to say that that
3 load can fluctuate?

4 A. Help me define fluctuate.

5 Q. Okay, let's say it can go from -- let's say
6 at any time it could maybe be around 18, 19
7 megawatts to all of a sudden it goes up to
8 30 megawatts, goes back down to ten
9 megawatts, something like that.

10 A. Their load -- from -- from my observations
11 of their load profile, I put a little bit
12 of that in some of my surrebuttal
13 testimony, they do have variations over
14 hourly basis, and which hourly is important
15 for what we do in demand response.

16 But everyone's load changes a little
17 bit all the time. It's a question of
18 what's -- what's that bandwidth, is -- is
19 it fluctuation versus a normal variation
20 and all of those things.

21 Q. And kind of with that fluctuation in mind;
22 let's say -- would it be possible for you
23 or Evergy Missouri West today to tell us
24 what Nucor's load will look like tomorrow
25 at 2:15 p.m.?

1 A. I don't know that I can answer that, if --
2 what it would look like tomorrow at 2:15
3 p.m.

4 Q. Would it be possible to say what it would
5 look like today at 2:15 p.m.?

6 A. I think we could make a reasonable
7 assumption; hence, what M&V does.
8 Everything we do in energy efficiency
9 demand response is measuring what didn't
10 happen, right?

11 There's lots of sophisticated energy
12 modeling, statistical analysis that does
13 that, but at the end of the day, right,
14 we're predicting the future or predicting
15 what didn't happen. So that's true of
16 any -- any program that we run.

17 Q. Well, when it comes to the EM&V, you just
18 pointed out that is a post-performance
19 measurement, we wouldn't -- EM&V wouldn't
20 be used to go ahead and set a baseline,
21 it's more to confirm whether that baseline
22 was met or not?

23 A. Can you rephrase just to make sure I'm
24 tracking you?

25 Q. Okay. Like an EM&V or evaluation

1 measurement and verification, it's not used
2 to set a baseline for a participating
3 customer, correct?

4 A. They -- they ultimately do to determine the
5 performance of -- of that customer if
6 that's what you're asking.

7 Q. Correct, yeah.

8 A. Okay. So, yeah, the EM&V does set a
9 baseline for the customer.

10 Q. But that is post the fact that an event had
11 been called by Evergy?

12 A. Yeah, the -- the -- they look at all
13 historical data and then decide what the
14 base -- what they would have used during
15 that period of time, correct.

16 Q. And part of that also is as you're kind of
17 making those assumptions, they need to be
18 as accurate as possible; is that fair to
19 say?

20 A. Sure.

21 Q. Now, if those assumptions, if those
22 forecasts are not correct, it could lead to
23 the benefits modeled by the company being
24 over or under value; is that fair to say?

25 A. What do you mean by not correct?

1 Q. Let's say if, you know, the company has
2 this idea that on day X Nucor would be able
3 to curtail Y amount of megawatts but in
4 fact day X comes and instead Nucor only
5 curtails Z amount of megawatts, could that
6 affect the potential benefits other
7 customers would realize?

8 A. If -- let me be sure I'm tracking your
9 question and -- and -- and repeat it back
10 here. So if a customer was -- we thought
11 was going to participate with Y and only
12 participated with Z as we look at it after
13 the fact --

14 Q. Yes.

15 A. -- how would -- how would that affect other
16 customers in our programs?

17 Q. Right. How could that affect the benefits
18 that the company is projecting would be
19 enjoyed by all customers?

20 A. Yeah. So the MEEIA demand response program
21 has set up to pay for performance, so it
22 would only pay on the Z level that the
23 customer performed at. If that was less
24 than the Y, right, we'd have to figure out
25 did someone else over-perform or how do we

1 make sure that we get the total that we
2 need. But the individual customer would
3 only get paid on what they performed with.

4 Q. And then when it comes to payment for
5 performance, that would also apply to any
6 participation through an SPP demand
7 response program as well, correct?

8 A. If a customer is bidding their registered
9 demand response into the market, how does
10 that work, is that your question?

11 Q. Yeah. It would still be -- I guess SPP
12 would verify performance before any bill
13 credit or payouts?

14 A. Yeah, they have a performance monitoring,
15 basically, process to in -- in order to
16 kind of validate what the payment is or the
17 performer didn't perform and what the price
18 was and all that.

19 Q. And then also, when it comes to any kind of
20 participation by Nucor in MEEIA, that would
21 also come with administrative costs for
22 that participation, correct?

23 A. Yeah, we have administrative costs to
24 recruit customers, to manage and be able to
25 call them with our systems, and then

1 obviously evaluation and costs also run
2 through that.

3 Q. And for MEEIA participation, is the company
4 able to allocate specific administrative
5 costs to specific participants?

6 A. We typically allocate them at the program
7 level, so the whole MEEIA demand response
8 program and -- and any other program will
9 get those costs allocated that way.

10 Q. But would the company be able to determine
11 the exact amount of administrative costs
12 for Nucor's participation?

13 A. We could allocate based on kind of
14 proportions or other methodologies to
15 assign, but typically it's done at the
16 program level, which is where kind of cost
17 effective is done at the normal basis,
18 right?

19 Q. And then I guess when it comes to those
20 administrative costs, the company does not
21 see those as part of the cost of serving
22 Nucor if Nucor were to participate in
23 MEEIA?

24 A. The costs associated with MEEIA demand
25 response, if Nucor was going to participate

1 in MEEIA demand response, would be -- not
2 be the cost to serve electricity to Nucor,
3 that's our position.

4 Q. And that's part of why the company has the
5 position of the hold harmless portion of
6 the SIL agreement should not apply?

7 A. The cost of --

8 (Court Reporter clarification.)

9 A. The cost of MEEIA demand response should
10 not go into the SIL hold harmless
11 calculation is our position, correct.

12 Q. (By Mr. Pringle) And then also, if Nucor
13 were to participate in the MEEIA business
14 demand response program, are there
15 incremental costs associated with that
16 participation?

17 A. I think this is maybe a -- maybe a nuance
18 of the question, but, you know, the
19 Commission authorized all of MEEIA Cycle
20 4's demand response with the targets
21 associated with that which has a budget and
22 assumed cost for all participation.

23 Our proposal is to include Nucor inside
24 of the already approved level of costs. So
25 while Nucor would effectuate some of those

1 costs, right, those costs are already
2 approved as part of it. So not technically
3 incremental but -- but part of what's
4 already been approved.

5 Q. Now, it's also true that at the time that
6 the Commission approved Evergy's MEEIA
7 Cycle 4, Nucor was prohibited from
8 participating in that cycle due to the SIL
9 language?

10 A. They were not allowed to participate, hence
11 the amendment request.

12 Q. Okay. One moment, Mr. File.

13 A. Sure.

14 Q. And I think I've got my last little few
15 questions for you, Mr. File.

16 Now, Nucor has participated in MEEIA
17 business demand response in the past,
18 correct?

19 A. They have.

20 Q. And that was under Evergy's Cycle 3 MEEIA
21 program?

22 A. Correct.

23 Q. And that participation was in spite of the
24 SIL language prohibiting such
25 participation?

1 A. This was before that became aware that that
2 was an issue, yeah.

3 Q. And then I guess it's fair to say that a
4 lot of the supposed benefits that the
5 company is projecting is based on Nucor
6 participation during MEEIA Cycle 3?

7 A. Can you rephrase just to make sure I'm
8 answering that wholly?

9 Q. Yeah. Is it -- is it fair to say that part
10 of the projections for the benefits from
11 Nucor participation in the MEEIA Cycle 4
12 business demand response is based on what
13 the company learned during that Cycle 3
14 participation?

15 A. We generally and have talked to Nucor about
16 participating similarly than they did in
17 Cycle 3 with the amount of kW they could
18 reduce but in Cycle 4, if that's your
19 question, yes.

20 Q. Yes. And the -- I guess the avoided costs
21 being used for Nucor participation in
22 Cycle 4, those differ from what was used in
23 Cycle 3, correct?

24 A. Yeah, the -- what we believe is the
25 implicitly approved avoided cost for

1 Cycle 4 are different than Cycle 3.

2 Q. Okay. I appreciate your time, Mr. File.

3 No further questions.

4 A. Thanks, Mr. Pringle.

5 JUDGE SEYER: Mr. Clizer.

6 CROSS-EXAMINATION BY MR. CLIZER:

7 Q. Good morning, Mr. File.

8 A. Good morning.

9 Q. Were you here when I was having a
10 conversation earlier with Mr. Meitner?

11 A. I was.

12 Q. So you were probably aware that I had a
13 question for him and that he oh so
14 generously pitched it on to you, do you
15 recall that?

16 A. I elbowed him afterwards, so that --

17 Q. Well, thank you. So obviously my question
18 is the same one and I'm going to do my best
19 to try and get it from memory.

20 So what is currently preventing Evergy
21 from creating a new tariff that would allow
22 a customer like Nucor to participate
23 directly in a SPP demand response program
24 outside of MEEIA in a manner that would
25 allow them to be counted for Evergy's

1 resource adequacy workbooks?

2 A. So having been close to tariffs in general
3 related to MEEIA and -- and demand
4 response, I'd say this: There'd be a
5 problem but we could do it.

6 Q. All right, thank you very much. I have no
7 further questions.

8 JUDGE SEYER: All right. Are
9 there questions from the Commissioners?
10 Chair Hahn.

11 CHAIR HAHN: Good morning.

12 THE WITNESS: Good morning.

13 CHAIR HAHN: In your
14 surrebuttal, you talked about the
15 verified peak demand reductions that
16 Nucor had experienced during MEEIA
17 Cycle 3. There are some arguments that
18 it's difficult to quantify those
19 reductions because of the load profile
20 of Nucor.

21 It seems as though you've done
22 it. Can you talk through how you did
23 it and how you made those assumptions
24 with relation to a baseline and how you
25 can verify that those are real

1 reductions?

2 THE WITNESS: Yeah. So in my
3 testimony, basically what I'm doing is
4 sharing what a third party has done in
5 this process. So you may be familiar
6 in the MEEIA process we have a third
7 party who evaluates all of our programs
8 and historically we've then had a staff
9 auditor audit that third party.

10 So what I've explained in
11 testimony is that that third party, and
12 ADM Associates, I think our counsel
13 mentioned that at the beginning, goes
14 through and looks at very similar days
15 leading up into the day that we call an
16 event and then tries to use that to
17 best model what their load would have
18 been had we not called an event.

19 And so there's a particular
20 issue I think in some of these where we
21 look at nine of the last ten similar
22 days. They say nine of ten because
23 they throw out one.

24 There's always an anomaly that
25 something doesn't make sense, maybe

1 they were -- they had an O&M -- or
2 operations day or a maintenance day
3 that day where they weren't running,
4 okay, so that probably doesn't make
5 sense to include in the -- the
6 baseline.

7 So we look at nine of ten and
8 then they create a -- an hourly profile
9 of what their load would have looked
10 like during that. And it can have some
11 ups and downs and it -- again, in the
12 testimony, there's even a little bit of
13 charts around that.

14 It can have some little ups and
15 downs, but it has basically a curve and
16 then the important part then is how do
17 you measure that against what they --
18 their load actually was, because we
19 have meter data to say what it actually
20 was. And so then they'll do that and
21 -- and validate that kW between those
22 two to say this is what that
23 performance was.

24 The -- the important next step
25 that's kind of talked about from -- we

1 turn that information in -- from a
2 third party that they evaluated into
3 SPP to say does this meet the rules and
4 parameters of SPP's demand response for
5 resource adequacy.

6 So then they go through that
7 next step of kind of validating that so
8 we can put it in our resource adequacy
9 notebooks.

10 CHAIR HAHN: Thank you. One
11 other question. I'm just trying to
12 recall from reading. There were -- I'm
13 just going to -- I think it was seven,
14 maybe seven events over Cycle 3 that
15 were responded to. Were there any
16 events where Nucor was called on and
17 did not show up, did not respond?

18 THE WITNESS: No.

19 CHAIR HAHN: Okay, thank you.

20 JUDGE SEYER: Any other
21 questions from the Commissioners?

22 COMMISSIONER MITCHELL: Judge,
23 if I may, it's Commissioner Mitchell.

24 JUDGE SEYER: Go ahead,
25 Commissioner.

1 COMMISSIONER MITCHELL: Yeah, I
2 was -- in your surrebuttal, around page
3 4, you talk about the calculation of
4 the benefit-cost ratio, and that was in
5 program year 2021-2022. And I'm
6 curious if there are other program
7 years that -- where the data bears out
8 the 2 point -- greater than 2.0
9 cost-benefit ratio.

10 THE WITNESS: For Nucor
11 specifically, that was the only years
12 they participated and so we honed in on
13 the benefits during the years they
14 participated.

15 But overall, all of our MEEIA
16 demand response programs go through the
17 same cost-benefit test to determine
18 that cost effectiveness level, and they
19 would have been on the order very
20 similarly to the benefit-to-cost ratio
21 when you look at '23, '24, '25 as you
22 kind of continue on without Nucor, but
23 that would have been the -- the
24 entirety of the group.

25 COMMISSIONER MITCHELL: Okay.

1 That helps me understand why -- why
2 2021 and 2022 were the only years where
3 the data shows up in that calculation.
4 So, thank you, I appreciate that.

5 THE WITNESS: Yeah, sure.

6 JUDGE SEYER: All right. I've
7 got a few questions myself, and this --
8 I'm going to start and refer to your
9 direct testimony.

10 THE WITNESS: Okay.

11 JUDGE SEYER: On page 14.

12 THE WITNESS: Okay.

13 JUDGE SEYER: The question you
14 were asked was, Why is it prudent and
15 reasonable for the Commission to
16 approve the amendment allowing Nucor
17 Sedalia to participate in EMW demand
18 response programs?

19 And within the answer to that
20 question you listed off four items.
21 And at the bottom of the page, number
22 four, you state, Existing programs
23 ensure non-Nucor EMW customers are not
24 harmed by Nucor's participation in
25 MEEIA demand response programs.

1 Can you elaborate on what you
2 mean by existing protections?

3 THE WITNESS: Yeah. That number
4 four was primarily in reference to the
5 SIL tariff and the protections
6 associated with all customers in that
7 tariff.

8 JUDGE SEYER: Okay. Here, let
9 me find this.

10 Have you reviewed Public Counsel
11 witness Manzell Payne's surrebuttal?

12 THE WITNESS: To some degree,
13 but I'd probably need refreshed
14 depending on what you want to ask.

15 JUDGE SEYER: Okay. Let me see
16 if I can find this. This is in
17 response -- this is on page 3 of that
18 surrebuttal testimony. And the
19 question was asked of him, Can you
20 provide any background as to the
21 connection between Evergy's MEEIA
22 business demand response programs and
23 Nucor's SIL tariff?

24 And part of the answer states,
25 The Commission approved a unanimous

1 stipulation and agreement in
2 EO-2023-0407 and EO-2023-0408 to solve
3 all issues regarding Nucor's
4 participation in EMW's MEEIA Cycle 3.
5 Now in MEEIA Cycle 4 EMW wants to
6 include Nucor in their MEEIA BDR
7 program, only this time they are
8 requesting permission to do so.
9 However, the targets for the MEEIA BDR
10 program, and then in parentheses 140
11 megawatts, in 2026 and 150 MW in 2027
12 have not changed. Those targets were
13 set without the inclusion of Nucor,
14 which means including Nucor now would
15 create the same problem identified in
16 the MEEIA prudence review cases where
17 EMW used Nucor to meet the targets --
18 or meet its targets easier, resulting
19 in an unjustified earnings opportunity
20 and incentives for EMW and Nucor
21 respectively.

22 Do you agree with that
23 statement?

24 MS. WHIPPLE: Judge, may I give
25 the witness a copy, please --

1 JUDGE SEYER: Sure.

2 MS. WHIPPLE: -- of that
3 testimony --

4 JUDGE SEYER: Sure.

5 MS. WHIPPLE: -- you're reading?
6 Okay.

7 JUDGE SEYER: And that was
8 Ms. Whipple.

9 THE WITNESS: Okay. Sorry about
10 that, I should have said something
11 before, but I did not have it.

12 Do you -- you're asking do I
13 agree with that answer.

14 JUDGE SEYER: Right. Do you
15 agree with that position, for lack of a
16 better term?

17 THE WITNESS: The position that
18 Evergy would be -- make it easier to
19 achieve their Cycle 4 targets I think
20 is a -- is a concern that was raised,
21 and -- and I can understand why it was
22 raised.

23 The -- the stipulation and
24 agreement that we put forth attempts to
25 resolve that by if -- maybe you recall

1 our MEEIA demand response has a
2 threshold for achievement to where we
3 must achieve 65 percent or we get zero
4 earnings opportunity, and that was
5 contemplated without Nucor.

6 So you could do different ways
7 to kind of solve that, but we've
8 effectively said, well, Nucor won't
9 count towards that 65. So we're going
10 to get to 65 percent with everybody
11 else and then -- to achieve earnings
12 opportunity.

13 So we agree that the target,
14 that -- that threshold wasn't
15 contemplated with Nucor and we're
16 trying to solve that in a different
17 way. I think that may have answered
18 your question.

19 JUDGE SEYER: I think so, too.

20 Referring to the stipulation and
21 agreement. If you can refer to that,
22 please.

23 THE WITNESS: I think I might
24 need that one more time. I'll have to
25 -- sorry for being unprepared witness

1 here. Apologize about that.

2 JUDGE SEYER: All right. On
3 page 1, the second paragraph, second
4 numbered paragraph --

5 THE WITNESS: Uh-huh.

6 JUDGE SEYER: -- it says, SIL
7 Contract Amendment. The signatories
8 agree to insert language in Nucor SIL
9 contract amendment stating the approval
10 of the amendment by the Missouri Public
11 Service Commission is conditional for
12 2027.

13 And then the first bullet point
14 says, If a financial analysis of
15 Nucor's participation in business
16 demand response shows net benefit to
17 all customers, Commission approval of
18 this settlement and contract amendment
19 will be automatically extended for the
20 term of the SIL contract term, and then
21 in parentheses, currently through 2029,
22 or any authorized extension.

23 How will you calculate -- how
24 will you calculate the net benefit to
25 all customers?

1 THE WITNESS: Yeah, the
2 financial analysis is related to how we
3 typically do demand response at the
4 program level, but the request here or
5 the stipulation here is to do it at the
6 participant level.

7 So all of the costs associated
8 with the incentive and the evaluation
9 and the things that we can allocate,
10 kind of going back to Mr. Pringle's
11 questions before, to that customer
12 contrasted with what is the avoided
13 cost or the alternative resource that
14 we would have to put into service if we
15 didn't have demand response in our
16 resource adequacy stack.

17 JUDGE SEYER: Okay.

18 THE WITNESS: So benefits minus
19 the costs then with the allocated.

20 JUDGE SEYER: All right. Those
21 are the only questions I have at this
22 time.

23 Mr. Briscar, is there any
24 recross on behalf of Nucor?

25 MR. BRISCAR: No, your Honor.

1 JUDGE SEYER: Mr. Pringle, on
2 behalf of staff?

3 MR. PRINGLE: Yes, Judge, thank
4 you. Travis Pringle on behalf of
5 staff.

6 RECROSS-EXAMINATION BY MR. PRINGLE:

7 Q. And, Mr. File, just a few followup on some
8 of these resource adequacy questions.

9 It is true that I guess for the purpose
10 of any SPP resource adequacy in 2026, it is
11 too late for Nucor to make a change to
12 that, correct?

13 A. Summer of 2026 is past, yes. We turn that
14 in May 15th.

15 Q. All right. And then so I guess for the
16 purposes of -- I guess for the purposes of
17 this case and resource adequacy, Nucor
18 participation as of now, based on the
19 currently approved MEEIA, would just be for
20 next summer?

21 A. Correct.

22 Q. And then also kind of when it came to the
23 demand response events that were called
24 with -- and those seven events were called
25 -- were responded to by Nucor, correct?

1 Do you know when it comes to the --

2 COURT REPORTER: I'm sorry, I
3 didn't get an answer on there.

4 A. Oh, sorry. The head shake was inaudible.

5 Yes.

6 MR. PRINGLE: Yeah, I can
7 confirm the witness nodded affirmative.

8 Q. (Mr. Pringle) When it comes to those
9 events, are you aware if any of them were
10 called -- called around any preplanned
11 maintenance that Nucor was already
12 undergoing?

13 A. I'm not aware if that was the case.

14 Q. Does Evergy do any kind of due diligence to
15 ensure that there isn't a already
16 preplanned maintenance or outage in place
17 when an event is called?

18 A. What we do to better understand kind of
19 implications of where a customer is in
20 terms of participation is we have a weekly
21 meeting on Mondays to evaluate kind of what
22 do we look for in terms of expectations for
23 demand response events and we also include
24 our key account folks who know if certain
25 customers are off for maintenance or for

1 those sorts of things, too. So they --
2 they can communicate that sort of thing
3 during those weekly meetings. That's the
4 typical process.

5 Q. Okay. And would that -- would the fact
6 that there is a scheduled maintenance
7 affect Evergy's decision to call an event?

8 A. It -- it may.

9 Q. Okay.

10 MR. PRINGLE: One moment, Judge.

11 Q. (By Mr. Pringle) I guess finally for you,
12 Mr. File, I have kind of just a question
13 about verified peak demand reductions. How
14 does, to your knowledge, SPP account for
15 variation in expected load compared to
16 actual performance?

17 MS. WHIPPLE: I'm going to
18 object that that's beyond the scope.

19 MR. PRINGLE: And this is part
20 of the SPP resource adequacy
21 accreditation which I believe were
22 questions asked by the Bench.

23 Ms. Whipple.

24 MS. WHIPPLE: It is very -- if
25 it's related to it, it is very

1 tangentially related to it, that there
2 were not any Bench questions on this
3 topic.

4 JUDGE SEYER: I'll sustain the
5 objection.

6 Q. (By Mr. Pringle) I guess finally, when it
7 comes to the allocation of any kind of
8 incentive costs, would it be possible for
9 the company to separate incentive payments
10 to Nucor from those sent to other customers
11 participating in MEEIA business demand
12 response?

13 MS. WHIPPLE: I'm going to
14 object to beyond the scope as well.

15 MR. PRINGLE: This is a question
16 regarding allocation which the witness
17 testified pretty extensively to in
18 response to questions from the Bench.

19 MS. WHIPPLE: It's a question
20 about allocation of incentives which
21 was not discussed by the Bench.

22 MR. PRINGLE: Which the witness
23 himself actually said incentive costs.

24 JUDGE SEYER: All right. I'm
25 going to overrule that objection.

1 MR. PRINGLE: Thank you, Judge.

2 A. The -- the short answer is we know exactly
3 how much incentive we would pay Nucor, yes.

4 Q. (By Mr. Pringle) Yes. And that could be
5 separated from, I guess, the pot of the
6 other incentive money if needed?

7 A. Yes.

8 Q. Thank you for your time, Mr. File.

9 MR. PRINGLE: No further
10 questions.

11 JUDGE SEYER: All right.
12 Mr. Clizer, do you have recross for
13 this witness?

14 MR. CLIZER: I do not. Thank
15 you, your Honor.

16 JUDGE SEYER: Thank you.

17 Ms. Whipple, any redirect?

18 MS. WHIPPLE: Briefly, thank
19 you.

20 REDIRECT EXAMINATION BY MS. WHIPPLE:

21 Q. In conversations with Chair Hahn and just
22 now with Mr. Pringle, you discussed the
23 seven events where Nucor previously
24 curtailed as called, correct?

25 A. Yes.

1 Q. If an event is called and Nucor was already
2 down for maintenance, I think that was the
3 example given, is demand reduction still
4 achieved in that event?

5 A. So when a -- a customer does not respond, I
6 think -- is that your question, because
7 they're already --

8 Q. Because they're already down --

9 A. Yeah.

10 Q. -- yes.

11 A. Is already down. Yeah, that's taken into
12 account in the pay for performance
13 ultimately. That's how we validate what --
14 what they did and what they didn't do.

15 Q. And in that event, do customers still
16 benefit from demand reduction?

17 A. So ultimately in resource adequacy, where
18 the customer can test and get down to in
19 terms of their performance and the
20 megawatts they're assigned with it is kind
21 of their own function, right, they -- they
22 can do that, right. So if they --

23 Maybe to put a specific example here,
24 so if the day before they know we're going
25 to have an event, right, they -- they take

1 that action however they want to get that
2 demand reduction.

3 Q. Thank you.

4 A. Uh-huh.

5 Q. In response to cross from Mr. Clizer, you
6 said there'd be a problem but we could do
7 it. Do you recall that conversation you
8 were having with Mr. Clizer?

9 A. Was it about the tariffs?

10 Q. Yes.

11 A. I do.

12 Q. What did you mean by there'd be a problem
13 but we could do it?

14 A. I -- I believe he was referring to can we
15 change, for example, the market-based
16 demand response program to be inclusive of
17 resource adequacy by participating in SPP's
18 programs.

19 You could change the tariff in that
20 way, but it would be basically kind of flip
21 reverse of the -- of the purpose, right.

22 So our MEEIA demand response is a resource
23 adequacy product. We tie it with
24 market-based demand response to be energy
25 ancillary markets, right.

1 So if they want to participate more,
2 contribute more, take some market
3 opportunities to have some financial
4 benefit for them, they can, but the primary
5 value and the value we pay for is for the
6 resource adequacy.

7 If you changed the market-based demand
8 response to that be the primary, the
9 customer commitment would have to be
10 similar to what SPP requires, which is
11 you're bidding that demand response in the
12 market almost on a daily basis, and that
13 level of commitment is a totally different
14 kind of customer commitment and value
15 proposition, financial value proposition
16 that to date we haven't seen customers buy
17 in to because the economics haven't made
18 sense for them to do -- be in the market
19 that much with their demand response.

20 Q. Are there any participants in Evergy's MBDR
21 tariff at this time?

22 A. Not today.

23 Q. And is that because of what you were just
24 referring to?

25 A. Correct.

1 Q. Are there other problems associated with
2 just editing the tariffs so that Nucor
3 could participate in SPP programs along the
4 lines of Mr. Clizer's question?

5 A. Other than, you know, unlikely to have
6 participants in the program based on kind
7 of what we see as the financials there,
8 they do have to meet additional
9 requirements that are above and beyond what
10 resource adequacy is required that we turn
11 in to SPP.

12 So it's almost like extra in -- extra
13 work, extra cost without any extra benefit
14 in terms of resource adequacy. So that
15 seems to be the -- the biggest part. We'd
16 have to recover those costs or the customer
17 would have to recover those costs in some
18 way as they -- if they participated through
19 SPP's program.

20 Q. If I understood you correctly, you're
21 saying it may actually be more costly for a
22 customer to participate in that fashion; is
23 that correct?

24 A. Potentially.

25 Q. Okay. Thank you.

1 MS. WHIPPLE: No more questions.

2 JUDGE SEYER: All right. May
3 this witness be excused?

4 All right. Thank you for your
5 testimony.

6 THE WITNESS: Thank you.

7 JUDGE SEYER: All right.

8 Ms. Whipple, Mr. Steiner.

9 MS. WHIPPLE: Judge, our third
10 witness is not here yet, but she should
11 be arriving shortly and if we took a
12 lunch break, she would arrive during
13 the lunch break and then we could put
14 her on the stand after that if that's
15 palatable for everyone. Otherwise
16 we'll need to proceed with another
17 party at this time and take her out of
18 order.

19 JUDGE SEYER: All right. We
20 will go ahead and break for lunch now
21 and reconvene at 12:45. So let's go
22 off the record.

23 (Lunch break.)

24 JUDGE SEYER: All right, let's
25 go back on the record.

1 Mr. Steiner, is your witness
2 here?

3 MR. STEINER: This is Roger
4 Steiner with Evergy.

5 And Linda Nunn is here and we
6 call her as our next witness.

7 JUDGE SEYER: Okay.

8 All right. Ms. Nunn, would you
9 raise your right hand, please.

10 LINDA NUNN,
11 (of lawful age, having been sworn, testified as
12 follows:)

13 DIRECT EXAMINATION BY MS. WHIPPLE:

14 Q. Please state your name.

15 A. My name is Linda Nunn, N-u-n-n.

16 Q. By whom are you employed?

17 A. Evergy, Incorporated.

18 Q. And what is your position there?

19 A. I am a senior manager in regulatory
20 affairs.

21 Q. In this case, on behalf of Evergy Missouri
22 West, did you prepare surrebuttal testimony
23 which has been marked as Exhibit 6?

24 A. I did.

25 Q. Do you have any corrections to your

1 surrebuttal testimony?

2 A. I do not.

3 Q. If I were to ask you the questions in your
4 surrebuttal testimony, would your answers
5 be as set forth in Exhibit 6?

6 A. Yes.

7 Q. Are those answers true and correct to the
8 best of your knowledge and belief?

9 A. They are.

10 MS. WHIPPLE: Your Honor, at
11 this time I'd move to admit Exhibit 6.

12 JUDGE SEYER: Any objection?
13 Exhibit 6 is admitted.

14 MS. WHIPPLE: Thank you. And
15 now I would tender the witness for
16 cross-examination.

17 JUDGE SEYER: Mr. Briscar, is
18 there any cross-examination on behalf
19 of Nucor?

20 MR. BRISCAR: No cross.

21 JUDGE SEYER: All right.

22 On behalf of staff?

23 MR. PRINGLE: Yes, Judge, thank
24 you.

25 This is Travis Pringle for

1 staff.

2 CROSS-EXAMINATION BY MR. PRINGLE:

3 Q. Good afternoon, Ms. Nunn.

4 A. Good afternoon.

5 Q. And just kind of for the record, what were
6 the years that Nucor previously
7 participated in Evergy Missouri West's
8 business demand response MEEIA program?

9 A. That's not part of my knowledge. I mean I
10 -- another member of the team would know
11 that information. I'm -- I'm more of the
12 accounting side.

13 Q. Do you have any reason to doubt that it was
14 2021-2022?

15 A. No.

16 Q. And then when it came to that past
17 participation, did Evergy reduce the actual
18 contracted capacity purchases based on
19 participation from Nucor over those years?

20 A. My understanding is that during that time
21 the capacity level was adequate to cover
22 Nucor's costs.

23 Q. So overall that's a yes?

24 A. That's as much as I understand about what
25 you're asking capacity-wise.

1 Q. And then also, you have testimony regarding
2 the hold harmless provision from the SIL?

3 A. Yes.

4 Q. And it is the company's position that any
5 administrative costs or incentive costs
6 from Nucor's participation in MEEIA should
7 not be included in that hold harmless?

8 A. That is correct.

9 Q. Because the company does not believe that
10 would be a cost of service for serving
11 Nucor?

12 A. For serving electricity to Nucor, that's
13 correct.

14 MR. PRINGLE: One moment, Judge.

15 Q. (By Mr. Pringle) Thank you for your time,
16 Ms. Nunn.

17 A. Thank you.

18 MR. PRINGLE: No further
19 questions, Judge. Thank you.

20 JUDGE SEYER: Mr. Clizer, any
21 cross on behalf of the Public Counsel?

22 MR. CLIZER: No. Thank you,
23 your Honor.

24 JUDGE SEYER: Do the
25 Commissioners have any questions for

1 the witness?

2 All right. Any redirect?

3 MS. WHIPPLE: Yes, very briefly,
4 thank you.

5 REDIRECT EXAMINATION BY MS. WHIPPLE:

6 Q. Ms. Nunn, you were asked by Mr. Pringle
7 here, you know, why you believed the SIL
8 hold harmless calculation is different from
9 cost to serve under the MEEIA BDR program.
10 Could you please elaborate?

11 A. In the -- in the original agreement, it
12 very specifically says what types of costs
13 need to be included and compared to
14 revenues in the hold harmless calculation
15 during a rate case and each of those costs
16 are identifiable as costs to provide
17 electricity to Nucor.

18 Q. And for those a little less familiar with
19 accounting, what's different about
20 providing electric service to Nucor versus
21 Nucor participating in the MEEIA BDR
22 program? Why would those --

23 MR. PRINGLE: Objection, beyond
24 the scope.

25 MS. WHIPPLE: I'm just -- it's a

1 clarifying question to the question
2 that was already asked and the
3 witness's response thereto.

4 JUDGE SEYER: I'll overrule the
5 objection. You can answer the
6 question.

7 A. So the -- the MEEIA benefits and costs are
8 all part of that MEEIA construct and then
9 the hold harmless is completely separate
10 and it is part of the rate case analysis of
11 the cost to produce electricity for Nucor.

12 Q. (By Ms. Whipple) What would happen if the
13 costs associated with Nucor's participation
14 in the MEEIA program was to be routed
15 through the SIL tariff's hold harmless
16 calculation? What would happen then?

17 A. There would be unbalance as to cost and
18 benefit.

19 Q. And what does that mean?

20 A. That means that you would just be looking
21 at one side of the equation and not the
22 whole picture.

23 Q. What impact would that have on shareholders
24 or customers?

25 A. Shareholders would be completely

1 responsible for all the costs associated
2 with the demand response program regarding
3 Nucor.

4 Q. Regarding Nucor?

5 A. Nucor, uh-huh, I'm sorry.

6 Q. And who would get the benefits under that
7 scenario?

8 A. All other customers.

9 Q. Not the shareholders who'd be paying all
10 the costs?

11 A. Correct.

12 Q. Okay, understood. Thank you so much.

13 MS. WHIPPLE: No further
14 questions.

15 JUDGE SEYER: Thank you -- thank
16 you, Ms. Nunn, for your testimony.

17 THE WITNESS: Thank you.

18 JUDGE SEYER: My understanding
19 is that concludes your witnesses.

20 MS. WHIPPLE: It does. Thank
21 you, your Honor.

22 JUDGE SEYER: All right, staff
23 of the Commission, would you like to
24 call your first witness?

25 MR. PRINGLE: Yes, Judge. Just

1 doing a little musical chairs real
2 quick as we get ready to call our first
3 witness.

4 MR. CUNNEEN: Staff calls Justin
5 Tevie.

6 JUDGE SEYER: Mr. Tevie, would
7 you raise your right hand, please.

8 JUSTIN TEVIE,
9 (of lawful age, having been sworn, testified as
10 follows:)

11 MR. CUNNEEN: And for the
12 record, this is Ray Cunneen for staff
13 counsel.

14 DIRECT EXAMINATION BY MR. CUNNEEN:

15 Q. Good morning -- good afternoon, Mr. Tevie.
16 Can you please --

17 A. Good afternoon.

18 Q. Could you please state your name and spell
19 it for the record?

20 A. Justin Tevie, J-u-s-t-i-n, last name is
21 T-e-v-i-e.

22 Q. Thank you. And how are you employed?

23 A. By the Missouri Public Service Commission.

24 Q. Did you prepare or cause to be prepared
25 rebuttal testimony in this matter marked as

1 Exhibit 102?

2 A. Yes.

3 Q. Do you have any changes or corrections to
4 your testimony?

5 A. Yes.

6 Q. Could you state that correction?

7 A. On page 8, line 3, it should read
8 January 1, 2029.

9 Q. Thank you. Are there any other corrections
10 at this time?

11 A. No.

12 Q. Are the answers contained in the testimony
13 true and correct to the best of your
14 knowledge and belief?

15 A. Yes.

16 Q. If I asked you those same questions today,
17 would any of those answers change?

18 A. No.

19 MR. CUNNEEN: I move for
20 admission of Exhibit 102.

21 JUDGE SEYER: Are there any
22 objections?

23 Exhibit 102 is admitted.

24 Q. (By Mr. Cunneen) Mr. Tevie, did you
25 contribute to the testimony in Exhibit 105?

1 Mr. Tevie, 105 would be the testimony
2 attached to the opposition to the amendment
3 and agreement.

4 A. The memo?

5 Q. Yes.

6 A. Yes, I did contribute.

7 Q. Okay. Thank you.

8 MR. CUNNEEN: I move for
9 admission of Exhibit 105.

10 JUDGE SEYER: Well, first of
11 all, I'm not exactly clear what
12 Exhibit 105 is. So can you direct me
13 in EFIS, I assume, to where that
14 testimony is?

15 MR. GRAHAM: Your Honor, this is
16 Paul Graham speaking for the staff.

17 This was the subject matter
18 that we talked about this morning.
19 Exhibit 105 is the memorandum of
20 testimony that was attached as an
21 exhibit or referred to as an exhibit in
22 the suggestions that filed -- that
23 staff filed in response to the
24 stipulation.

25 JUDGE SEYER: Okay.

1 MR. GRAHAM: And so -- and this
2 is one of the sponsoring witnesses.
3 There are two more sponsoring
4 witnesses.

5 JUDGE SEYER: Okay. And that
6 is --

7 MR. GRAHAM: We are calling it
8 105.

9 JUDGE SEYER: Right. And it's
10 eight pages, numbered pages, line
11 numbered pages?

12 MR. GRAHAM: That's exactly what
13 it is.

14 JUDGE SEYER: Okay. And it
15 actually is headed on the first page
16 Memorandum Specific Objections --

17 MR. GRAHAM: Yes.

18 JUDGE SEYER: -- correct?

19 MR. GRAHAM: Yes.

20 JUDGE SEYER: Okay.

21 MR. GRAHAM: And the
22 Exhibits 103 and 104 which Ray just
23 mentioned to you are attachments to
24 that memorandum. So the three come in
25 together, but this witness is one of

1 three sponsoring witnesses for the
2 whole thing. It's not ready to come in
3 through him. We'll have two more
4 witnesses. Sorry to confuse.

5 JUDGE SEYER: All right. Are
6 there objections to the admission of
7 Exhibit 105?

8 MS. WHIPPLE: At this time, yes,
9 because I think staff has to put all of
10 their witnesses up who have contributed
11 in part to this exhibit and any
12 attachments and can't get the whole
13 thing in on only one sponsoring witness
14 who contributed only partially.

15 MR. GRAHAM: Staff agrees with
16 counsel on that and we would wait till
17 the third witness testifies.

18 JUDGE SEYER: And that is
19 Mr. Graham.

20 MR. CUNNEEN: That is correct.

21 MR. GRAHAM: Well, no, we're not

22 --

23 MR. CUNNEEN: No, he was talking
24 about who was talking.

25 MR. GRAHAM: Oh, okay.

1 JUDGE SEYER: No, no, I wasn't
2 implying that you were going to be the
3 witness.

4 MR. GRAHAM: Well, I was ready
5 for objections over here that I --
6 (Indistinguishable.)

7 MR. CUNNEEN: This is Ray
8 Cunneen for staff. I tender the
9 witness for cross-examination.

10 JUDGE SEYER: Okay. And,
11 Mr. Clizer, do you have cross?

12 MR. CLIZER: Yes, hopefully
13 briefly.

14 CROSS-EXAMINATION BY MR. CLIZER:

15 Q. Good afternoon, Mr. Tevie.

16 A. Good afternoon.

17 Q. Originally I hadn't prepared cross, but
18 some of the earlier conversations today got
19 me confused and I want to just get your
20 help in understanding something. So can I
21 direct you to your rebuttal testimony,
22 page 8?

23 A. Yes, I'm there.

24 Q. And I just want to understand how this
25 customer baseline model works. So

1 according to what you have written here
2 starting on line 17, you talk, For this
3 type of baseline, the hourly load is the
4 average hourly load taken from the highest
5 nine out of ten prior non-event,
6 non-holiday weekdays for weekday events.

7 Am I correct in interpreting that to
8 mean that when you're setting the baseline,
9 you just look at the ten days prior to when
10 an event was called and pick the nine
11 highest?

12 A. Nine of ten average, the nine of ten.

13 Q. Right. So it's just the ten that came
14 before whatever the event was called; is
15 that accurate?

16 A. Yes. And these, as I mentioned,
17 non-holiday weekdays.

18 Q. Oh, so you exclude days where you would
19 expect them not to be operating
20 effectively?

21 A. Yeah, holiday -- non -- it's non-holiday
22 weekdays.

23 Q. Got it.

24 A. Yeah.

25 Q. Okay. And so the idea is that those nine

1 of ten days would be consistent and
2 therefore could give you an average
3 baseline, is that how that works?

4 A. Yes.

5 Q. All right.

6 A. From -- from the DR response I received
7 from Evergy, that was my interpretation,
8 yeah.

9 Q. Okay. So is this something Evergy does,
10 something the EM&V people do, something
11 staff does or who is doing this?

12 A. So let me just read the DR response.

13 The DR response says that the EM&V
14 baseline method was a nine of ten on
15 adjusted customer baseline model.

16 Q. So it's the EM&V group that's doing this;
17 is that --

18 A. From my -- from my understanding, yes.

19 Q. Okay. And as I -- just to make sure I
20 understand staff's issue correctly,
21 basically what you're saying is you don't
22 think that nine of ten days gives you a
23 reliable baseline because of fluctuation,
24 is that --

25 MS. WHIPPLE: Judge, I'm going

1 to object to this question. It's
2 friendly cross. Staff's position is
3 entirely adopted by OPC. The point of
4 cross-examination is to test testimony
5 that is not in the interest of your
6 party, not perpetuate testimony that is
7 purely in the interest of the party you
8 represent, and that's exactly what's
9 going on here. It's unfair and it
10 should stop.

11 JUDGE SEYER: Mr. Clizer.

12 MR. CLIZER: You know what?
13 Honestly, I don't think that that's a
14 grounds for it, but I'll be completely
15 honest, I don't need that last
16 question. My real goal was just to
17 have a better understanding of how this
18 baseline works and I have achieved
19 that, so that was the extent of my
20 cross. Thank you very much.

21 JUDGE SEYER: Mr. Briscar, any
22 on -- any cross on behalf of Nucor?

23 MR. BRISCAR: Yes, your Honor.

24 CROSS-EXAMINATION BY MR. BRISCAR:

25 Q. Let's see. Good afternoon, Mr. Tevie.

1 A. Good afternoon.

2 Q. My name is Joseph Briscar, I represent
3 Nucor Steel Sedalia in this matter.

4 How are you today?

5 A. Good.

6 Q. Good. Do you have a copy of your testimony
7 in front of you?

8 A. Yes, I do.

9 Q. Okay. I'm going to ask you a few questions
10 about your testimony. Generally speaking,
11 according to your testimony, you're broadly
12 familiar with Evergy's demand response
13 programs, including the MEEIA programs,
14 right?

15 A. The right person will be Mark Kiesling or
16 Jordan Hull. I have a very general idea
17 about demand response but not Evergy's
18 demand response, yeah.

19 Q. Okay. So you're not necessarily testifying
20 to the specifics of the business demand
21 response program?

22 A. No. The right witness would be Jordan
23 Hull, staff witness Jordan Hull, yeah.

24 Q. But you can testify to demand response
25 programs generally?

1 A. At this point, no. I just wrote about the
2 baseline method, but I related the baseline
3 method to the demand reductions which can
4 be -- or the demand savings which can be
5 achieved, but I didn't testify, I didn't
6 write testimony about the demand response
7 program itself.

8 Q. Okay. Well, let's just go through a little
9 bit of your testimony then.

10 A. Okay.

11 Q. Can you turn to page 3, please? This is
12 your surrebuttal testimony -- I mean the
13 rebuttal testimony.

14 Beginning on line 7, there's a
15 question, What are the benefits and costs
16 of the MEEIA demand response program?

17 And you answer on line 8, The benefits
18 will accrue to Nucor in the form of a
19 discounted bill.

20 Do you see that?

21 A. Yes, sir.

22 Q. Well, first, before we get into the answer,
23 the question asks about your understanding
24 of the MEEIA demand response programs,
25 right?

1 A. Yes, the MEEIA demand response program,
2 yeah.

3 Q. And just a minute ago when I asked you, you
4 said you weren't testifying to the demand
5 or -- the MEEIA demand response programs
6 and you had no knowledge of it.

7 A. Well, I told you --

8 MR. CUNNEEN: I'm going to
9 object. This is Ray Cunneen. I think
10 he's mischaracterizing testimony.

11 JUDGE SEYER: I'm going to
12 overrule the objection. You can answer
13 the question.

14 A. So I said I had a general idea but not into
15 detail because the question was more
16 specific about the demand response program
17 and I don't have any detailed knowledge of
18 the MEEIA demand response program, but I do
19 have a general knowledge, yeah.

20 Q. (By Mr. Briscar) Okay. I'm just trying to
21 lay the foundation to understand what it is
22 you're testifying to and what you're able
23 to testify to.

24 A. Okay.

25 Q. So I'm just looking at your testimony

1 and we're going to go from there, all
2 right?

3 A. Okay.

4 Q. Okay. So specific to your answer to the
5 question, you say the benefits will accrue
6 to Nucor in the form of discounted bill; is
7 that right?

8 A. Yes.

9 Q. Is it your position that the MEEIA demand
10 response programs only provide benefits to
11 participating customers?

12 A. There are also some costs involved.

13 Q. I'm asking specifically about the benefits,
14 though.

15 A. Well, it should provide benefits to
16 customers.

17 Q. So it will provide benefits not only to
18 Nucor but to other customers; is that
19 right?

20 A. Yes.

21 Q. Okay. And let's explore some of those
22 other benefits.

23 Demand response programs can provide
24 and help reduce Evergy's capacity
25 obligation, right?

1 A. Yes.

2 Q. And in addition to avoided capacity costs,
3 demand response can help provide
4 reliability benefits?

5 You need an example?

6 A. No. These questions are outside the scope
7 of my testimony because my testimony wasn't
8 to talk about avoided capacity costs or
9 reliability. There's a staff witness
10 responsible for that.

11 Q. But your testimony does go to the benefits
12 that will accrue under the MEEIA programs,
13 right?

14 A. Yes, it does talk about the benefits, yeah.

15 Q. Okay. In terms of a reliability benefit,
16 let's say that curtailing a load at a time
17 of system stress could help prevent
18 brownouts or blackouts, right?

19 Is that a yes?

20 A. Yes.

21 Q. Thank you. And if a curtailable customer
22 is curtailed at the time of the system
23 peak, that would help reduce the overall
24 system peak; is that right?

25 A. That's correct.

1 Q. Okay. And so each of these areas, avoided
2 capacity, lower system peaks, those are
3 potential benefits of demand response
4 programs?

5 A. Yes.

6 Q. Okay. So if Nucor participated in the
7 business demand response program, it's not
8 that the only benefits would be a
9 discounted bill to Nucor, it's possible
10 that we would see these other benefits as
11 well, correct?

12 A. It's possible, but my discussion of the
13 benefits was with respect to the baseline
14 and how the reduction of -- how the
15 reduction from the baseline would create
16 some benefits. But like I said before, I'm
17 not the right expert for these kind of
18 questions.

19 Q. Okay. And just to clarify, on those
20 benefits and getting to more of those
21 specifics, which witness did you say that
22 would be better for?

23 A. I think that would be staff witness Mark
24 Kiesling or Jordan Hull.

25 Q. Okay.

1 A. Yeah.

2 Q. Well, then let's turn to the section of
3 your testimony where you talk about this
4 load forecast for Nucor beginning -- let's
5 look at page 9.

6 A. Yes, I'm there.

7 Q. Okay. Beginning on lines 6 and through 9,
8 the question is, Does Evergy have the
9 ability to accurately forecast Nucor's
10 load, to which you respond, No, due to the
11 level of volatility surrounding the load,
12 it is unpredictable. The unpredictability
13 of the load implies that Evergy cannot
14 accurately forecast the peak demand
15 reduction net result from calling a demand
16 response event.

17 Is that correct?

18 A. Yes.

19 Q. Is it your position that Nucor should be
20 disqualified from participating in the
21 business demand response program because
22 its load is unpredictable?

23 A. Well, if the load is difficult to forecast,
24 right, then it might be difficult to pin
25 down the baseline. If we cannot pin down

1 the baseline, then it's difficult to
2 measure or calculate the demand reductions
3 or the savings. So that's what I was
4 trying to say.

5 Q. Are you aware of any other customers who
6 wanted to participate in the business
7 demand response program who are barred from
8 doing so because their load -- because of
9 their load shape or their unique load
10 characteristics?

11 A. No.

12 Q. Are there any specific requirements in the
13 MEEIA program restricting customers with
14 unpredictable loads from participating?

15 A. I'm not aware of this.

16 Q. One moment, please.

17 That's all. Thank you.

18 JUDGE SEYER: All right.

19 Ms. Whipple, do you have cross?

20 MS. WHIPPLE: No. Thank you,
21 Judge.

22 JUDGE SEYER: Do the
23 Commissioners have any questions for
24 the witness?

25 All right. Any redirect?

1 REDIRECT EXAMINATION BY MR. CUNNEEN:

2 Q. Mr. Tevie, you talked about the baseline
3 model and nine out of ten average. You
4 have reviewed Nucor's load over the period
5 of time, correct?

6 A. Yes, I did.

7 Q. How volatile is Nucor's load?

8 A. I do have some graphs on pages 9 through --
9 9 through 11 to show the extent of
10 volatility in their load.

11 Q. Can you describe how that volatility looks
12 on those graphs?

13 MS. WHIPPLE: Judge, I'm going
14 to interpose an objection at this
15 point. I think it's -- it's beyond the
16 scope of cross-examination and on top
17 of that it only relates to the friendly
18 cross that was offered by OPC.

19 And that's part of the problem
20 with friendly cross, is, you know,
21 getting the witness to say something on
22 the stand that then allows open
23 redirect by the party, and these are
24 both parties who are perpetuating
25 testimony only in their interests. So

1 kind of a double-layered objection at
2 this point.

3 MR. CUNNEEN: Judge, I'm just
4 going to say that I think everybody
5 that's crossed Mr. Tevie at this time
6 has kind of hinted towards this
7 volatility and I'm just trying to get
8 to the bottom of it.

9 JUDGE SEYER: All right. I'm
10 going to overrule the objection but
11 will remind you that it appears that
12 the information on those graphs is
13 confidential.

14 Q. (By Mr. Cunneen) Just one more time.
15 Could you describe how that volatility is
16 represented in your -- in your graph,
17 Mr. Tevie?

18 A. Well, it shows some highs and lows.

19 Q. Right. With these highs and lows, is that
20 a fluctuation?

21 A. Yes, it's a fluctuation.

22 Q. Is this fluctuation hourly, daily, monthly?

23 A. This graph, I present the 15-minute
24 intervals and then hourly intervals.

25 Q. Thank you. One moment, please.

1 Okay. Back to Nucor's question about
2 your load forecast, how would you measure
3 the difference if you can't find a
4 reasonable baseline?

5 A. Staff attached FERC -- a FERC document
6 which describes -- proposes, I mean,
7 prescriptions for finding a -- a reliable
8 baseline in that document.

9 Q. Could you expand on what your understanding
10 of that is?

11 A. Well, the document describes how to
12 establish the baseline window, how to
13 calculate the baseline itself and then any
14 adjustments to make to the baseline.

15 Q. Okay.

16 JUDGE SEYER: Excuse me. This
17 is Judge Seyer. Mr. Tevie, did you say
18 fake document?

19 THE WITNESS: Oh, FERC.

20 JUDGE SEYER: F-E-R-C.

21 THE WITNESS: Federal Energy
22 Regulatory Commission.

23 JUDGE SEYER: Okay, thank you.

24 MR. CUNNEEN: Nothing further
25 from staff, Judge.

1 JUDGE SEYER: All right.
2 Mr. Tevie, thank you for your
3 testimony.

4 THE WITNESS: Thank you.

5 JUDGE SEYER: Staff may call
6 their next witness.

7 MR. PRINGLE: Thank you, Judge.
8 At this time, staff calls Mark Kiesling
9 to the stand.

10 JUDGE SEYER: Mr. Kiesling,
11 would you raise your right hand?

12 MARK KIESLING,
13 (of lawful age, having been sworn, testified as
14 follows:)

15 DIRECT EXAMINATION BY MR. PRINGLE:

16 Q. Good afternoon, Mr. Kiesling.

17 A. Good afternoon.

18 Q. Could you please state and spell your name
19 for the record?

20 A. Yeah. It's Mark Kiesling, K-i-e-s-l-i-n-g.

21 Q. And, Mr. Kiesling, by whom are you employed
22 and in what capacity?

23 A. I'm employed by the Missouri Public Service
24 Commission as a senior research and data
25 analyst.

1 Q. And are you the same Mark Kiesling who
2 caused to sponsor in this proceeding the
3 rebuttal testimony of Mark Kiesling which
4 has been premarked as staff Exhibit 101?

5 A. Yes.

6 Q. And are you also the same Mark Kiesling who
7 contributed to the staff memorandum in
8 response to the stipulation which has been
9 premarked as staff Exhibit 105?

10 A. Yes.

11 Q. If I asked you the same questions within
12 Exhibits 101 and 105, would your answers be
13 the same or significantly similar to those
14 therein?

15 A. Yes.

16 Q. And then also are the statements made by
17 you within Exhibits 101 and 105 true and
18 correct to the best of your knowledge and
19 belief?

20 A. Yes.

21 Q. And at this time, do you have any
22 corrections to make to either Exhibit 101
23 or your contributions to Exhibit 105?

24 A. No.

25 Q. Thank you, Mr. Kiesling.

1 MR. PRINGLE: At this time,
2 Judge, staff moves to enter
3 Exhibit 101, the rebuttal of Mark
4 Kiesling, on to the record.

5 JUDGE SEYER: Any objections?

6 All right, Exhibit 101 is
7 admitted.

8 MR. PRINGLE: Thank you, Judge.
9 And at this time staff now
10 tenders Mr. Kiesling for
11 cross-examination.

12 JUDGE SEYER: Mr. Clizer.

13 MR. CLIZER: No questions.
14 Thank you, your Honor.

15 JUDGE SEYER: Mr. Briscar.

16 MR. BRISCAR: Yes, your Honor.

17 CROSS-EXAMINATION BY MR. BRISCAR:

18 Q. Good afternoon, Mr. Kiesling. How are you?

19 A. Good. How are you?

20 Q. Good. My name is Joseph Briscar, I
21 represent Nucor in this matter.

22 Do you have a copy of your testimony in
23 front of you?

24 A. Yes, I do.

25 Q. Okay. I'm going to ask you a couple

1 questions about that. If you'll start on
2 page 5 of your testimony.

3 A. Okay.

4 Q. Lines 9 through 11, you say, Unless Evergy
5 -- or EMW can avoid additional capacity
6 purchases or reduces the amount of new
7 generation needed to serve Evergy
8 customers, non-Nucor ratepayers will not
9 benefit from Nucor participation in
10 business demand response in 2026.

11 Is that accurate, that I read it
12 accurately?

13 A. Yeah.

14 Q. And first, as we know, the 2026 deadline
15 has passed to put a new customer into the
16 demand response program; is that right?

17 A. To put a new customer in the demand
18 response program? There is no deadline on
19 that.

20 Q. Oh, I mean -- were you here earlier for the
21 testimony this morning?

22 A. Yes.

23 Q. And there was discussion about how there
24 was a May 15 deadline to enroll a customer
25 for the summer period in 2026. Did you

1 hear that?

2 A. Yes.

3 Q. All I'm getting at is that the 2026
4 reference is likely a reference to 2027
5 now; is that right? Or either way, it
6 would work either way?

7 A. It could be at the time testimony was
8 written, it was before May 15th.

9 Q. Right. And I assume you were here just now
10 when I was cross-examining Mr. Tevie?

11 A. Yes.

12 Q. And he suggested that either you or
13 Mr. Hull might be an appropriate witness to
14 ask about the benefits of demand response
15 and the business demand response program?

16 A. Yes.

17 Q. Are you able to talk about that?

18 A. Yeah, the benefits, yes.

19 Q. You recognize that demand response
20 generally can provide benefits that include
21 avoided capacity, right?

22 A. Potentially, yes.

23 Q. But it can also provide reliability
24 benefits, too?

25 A. Potentially, yes.

1 Q. Like if curtailing during when the system
2 is stressed can help avoid blackouts or
3 brownouts; is that right?

4 A. Potentially.

5 Q. And so there are other benefits aside from
6 the capacity benefits, like we just
7 established, the potential benefit of
8 reliability. If a customer reduces load
9 during the system peak, it can help reduce
10 the system peak; is that right?

11 A. That's the design of the program.

12 Q. That benefit, the reduction of the peak,
13 and the reliability benefits are different
14 benefits than avoided capacity benefits,
15 aren't they?

16 A. Yeah, the avoided capacity is supposed to
17 be a benefit by having a BDR program, that
18 the company is deferring future generation
19 because of the BDR program.

20 Q. Right. And if Nucor were to participate in
21 the business demand response program,
22 customers could see some of those other
23 benefits as well, right?

24 A. Possibly, but Evergy didn't demonstrate
25 that.

1 Q. I'm sorry?

2 A. I said Evergy didn't demonstrate that.

3 Q. When a demand response customer is
4 curtailed, they are not only taking load
5 off the system potentially, but if they
6 remain curtailed, they're not adding load
7 back to the system, right?

8 A. Yeah.

9 Q. And so that -- would you consider that a
10 benefit as well, of not adding load back on
11 during times of system stress?

12 A. I mean it depends when -- what's going on
13 with the customer. There's a lot of
14 factors that go in to that.

15 Q. So, yeah, let's say it's a, you know, a
16 large customer, 20 megawatts or something.
17 Avoiding that load from going on the
18 system during the system peak could help
19 provide reliability benefits; is that
20 right?

21 A. Potentially.

22 Q. Nothing further. Thank you.

23 JUDGE SEYER: All right. Any
24 cross by Evergy?

25 MR. ROBINSON: Yes, your Honor.

1 CROSS-EXAMINATION BY MR. ROBINSON:

2 Q. Good morning (sic), Mr. Kiesling. My name
3 is Michael Robinson on behalf of Evergy. I
4 just have a few questions for you today.

5 To begin, staff is not opposed to
6 demand response generally, correct?

7 A. Correct.

8 Q. And staff is also not opposed to Nucor
9 participating in demand response, correct?

10 A. Correct.

11 Q. Is it true that demand response can produce
12 benefits to Evergy Missouri West?

13 A. Potentially, yes.

14 Q. And is it true that demand response can
15 also produce benefits to Nucor?

16 A. In the form of incentives?

17 Q. Sure.

18 A. That would be the benefit Nucor would get
19 out of it, yes.

20 Q. And is it true that curtailment by a large
21 industrial customer during a peak reduction
22 event reduces system peak load?

23 A. Should be, yes.

24 Q. And you're not objecting in this case that
25 Nucor should not curtail load; is that

1 true?

2 A. I never wrote anything about that, no.

3 Q. But you do object that Nucor should not
4 curtail load within the MEEIA framework; is
5 that true?

6 A. Yes.

7 Q. Okay.

8 A. As it's currently constructed.

9 MR. ROBINSON: Your Honor, my
10 next six questions implicate
11 information that the company considers
12 confidential. Would it be all right to
13 go in camera?

14 JUDGE SEYER: Yes.

15 MR. ROBINSON: Thank you.

16 JUDGE SEYER: So we are now
17 going in camera and off the record.
18 Well, not off the record but in camera.

19 MR. ROBINSON: Thank you,
20 Judge.

21 (The following portion of the
22 hearing is being held in camera, pages
23 177 and 178.)

24 (Lines 24 and 25 are
25 intentionally void of testimony.)

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1 (The in camera portion of the
2 hearing has concluded, and the hearing
3 continues on page 179, as follows:)

4 Q. (By Mr. Robinson) All right, Mr. Kiesling,
5 moving on, is it true that EMW is the load
6 responsible entity for purposes of SPP
7 resource adequacy?

8 A. As it's currently, yes.

9 Q. And is it true that additional accredited
10 capacity reduces EMW's SPP capacity
11 obligation?

12 A. I'm not the witness to talk about that.
13 Mr. Jordan Hull could speak to that.

14 Q. Thank you.

15 All right, Mr. Kiesling, you've
16 characterized Mr. File's avoided capacity
17 figure for 2021 and 2022 as
18 unsubstantiated; is that true?

19 A. I don't recall using those words. It's
20 just a avoided cost that is currently not
21 approved.

22 Q. Would you mind reading lines 2 through 4 of
23 page 5 of your testimony, please.

24 A. Yeah. Mr. File's claims of avoided cost by
25 allowing Nucor's participation in BDR,

1 there was not an approved avoided cost for
2 Evergy's MEEIA Cycle 4 by the Commission,
3 so any claims of avoidance of the capacity
4 cost benefits are unsubstantiated.

5 Q. Thank you, Mr. Kiesling. And the basis for
6 your unsubstantiated characterization is
7 that, according to your testimony, there
8 are no work papers and there is no
9 Commission approved Cycle 4 avoided cost,
10 true?

11 A. Yes.

12 Q. But is it true that those figures that
13 you've characterized as unsubstantiated
14 were produced by ADM & Associates?

15 A. There is no EM&V for Cycle 4 right now.
16 The contract was just recently approved, so
17 there is no avoided cost.

18 Q. What about --

19 A. ADM would have been the previous for
20 Cycle 3.

21 Q. Right. Sorry. I was referring to Cycle 3.

22 A. Well, that's Cycle 3. This is Cycle 4.

23 Q. But for Cycle 3, those figures that
24 Mr. File cited, were those produced by ADM
25 & Associates?

1 A. Without verification, I would have to say
2 yes.

3 Q. And would ADM & Associates' work have been
4 overseen by Evergreen Economics?

5 A. That was the -- the consultant that the
6 State contracted with, the Commission
7 contracted with to review the report.

8 Q. Correct. And did you contact ADM to verify
9 Mr. File's avoided capacity figure before
10 filing your rebuttal?

11 A. No, because it was from a previous cycle.

12 Q. So you wouldn't -- you wouldn't do that
13 because it was from a previous cycle.

14 Do you know if neither ADM or Evergreen
15 flagged the avoided cost methodology in the
16 2021 or 2022 evaluation reviews?

17 A. Without reviewing those reports again, I
18 can't --

19 Q. Okay.

20 A. -- know one way or the other.

21 Q. And is it true that you did not
22 independently perform any quantitative
23 analysis of the costs or benefits of
24 Nucor's BDR participation in this case?

25 A. We reviewed the numbers, but we didn't use

1 an avoided cost.

2 Q. Thank you, Mr. Kiesling.

3 MR. ROBINSON: I have no further
4 questions.

5 JUDGE SEYER: All right. Are
6 there any questions from the
7 Commissioners?

8 Mr. Pringle.

9 I'm sorry. Chair Hahn.

10 CHAIR HAHN: Thank you, Judge
11 Seyer.

12 Good afternoon, Mr. Kiesling.

13 THE WITNESS: Good afternoon.

14 CHAIR HAHN: In staff's opening
15 statement, they mentioned a potential
16 clawback provision if the savings are
17 not materialized by the end of 2027.
18 They mentioned that you or Mr. Tevie
19 could talk about that.

20 What would a clawback provision
21 of staff's proposing look like?

22 THE WITNESS: I think what was
23 intended with that is that the
24 financial analysis would be done and
25 then that money would be set aside and

1 if there was not benefits shown, then
2 that amount would then be trued up, so
3 to speak, in a rate case.

4 CHAIR HAHN: And that would flow
5 -- that benefit would flow back to all
6 customers or however it was determined
7 in the rate case?

8 THE WITNESS: Correct.

9 CHAIR HAHN: Thank you.

10 JUDGE SEYER: Mr. Pringle, do
11 you have redirect?

12 MR. CLIZER: Your Honor,
13 technically we'd move to recross.

14 JUDGE SEYER: Oh, I'm sorry.

15 MR. PRINGLE: But I will have
16 redirect, Judge.

17 JUDGE SEYER: Okay. Mr. Clizer.
18 Sorry about that.

19 MR. CLIZER: I don't know why I
20 said that because I have no recross,
21 but --

22 JUDGE SEYER: Keep me in line, I
23 appreciate that.

24 Mr. Briscar, any recross?

25 MR. BRISCAR: No, your Honor.

1 JUDGE SEYER: Mr. Robinson.

2 MR. ROBINSON: No, your Honor.

3 JUDGE SEYER: All right.

4 Mr. Pringle, redirect.

5 MR. PRINGLE: Thank you, Judge.

6 REDIRECT EXAMINATION BY MR. PRINGLE:

7 Q. Mr. Kiesling, I kind of wanted to go back
8 to some of the questions that Nucor's
9 counsel, Mr. Briscar, asked you earlier.
10 Those benefits that you were being asked
11 about, are they exclusive to the MEEIA
12 business demand response program?

13 A. Yes.

14 Q. Is it fair to say that those benefits could
15 also arise from any demand response
16 program?

17 A. No.

18 Q. And then also earlier you were talking
19 about when the incentive costs are paid to
20 a MEEIA business demand response
21 participant. Are you aware that the
22 payments are paid up front?

23 A. Paid up front?

24 Q. Uh-huh.

25 A. Well, it's -- they're paid out once a

1 contract is constructed between Evergy and
2 BDR and then once an event is called
3 potentially, then it's verified and then a
4 payment will be made.

5 Q. Okay. And then also, when did MEEIA
6 Cycle 3 end?

7 A. At the end of 2024.

8 Q. What aspect of Evergy's MEEIA Cycle 3
9 program did the Commission order transfer
10 over to Cycle 4?

11 A. What was that again, I'm sorry?

12 Q. Any specifics from the Cycle 3, like
13 avoided costs, were those ordered
14 transferred over to Cycle 4?

15 A. No, there was nothing ordered to be
16 transferred from Cycle 3 to 4.

17 Q. And then when it comes to the Commission's
18 EM&V contractor, Evergreen, its review of
19 EM&V, are you aware, is that review
20 specific to BDR participants or the program
21 as a whole?

22 A. It just looks at the program as a whole.
23 It doesn't go down on a granular lever --
24 level to individuals or individual
25 companies.

1 MR. PRINGLE: One moment, Judge.

2 Q. (By Mr. Pringle) Finally, Mr. Kiesling, is
3 there a difference between potential
4 benefits and realized benefits?

5 A. Yes.

6 Q. Oh, sorry, got one more question for you.
7 What is that difference?

8 A. Well, the potential benefits in like this
9 case, all the incentives, admin costs, all
10 that will be borne by all the other
11 ratepayers outside of Nucor, and so the --
12 and I'm sorry, I forgot the other term you
13 used. The --

14 Q. Realized benefit.

15 A. Realized. So that additional cost will
16 offset anything potentially that could be
17 realized.

18 Q. Thank you very much for your time,
19 Mr. Kiesling.

20 MR. PRINGLE: No further
21 questions from staff, Judge. Simply
22 ask that Mr. Kiesling be excused.

23 JUDGE SEYER: All right.

24 Mr. Kiesling, you may be excused.

25 You can call your next witness.

1 MR. PRINGLE: One more batch of
2 musical chairs, Judge.

3 JUDGE SEYER: Mr. Graham.

4 MR. GRAHAM: Yes. Staff calls
5 Mr. Hull.

6 JUDGE SEYER: All right. Mr.
7 Hull, would you raise your right hand?

8 JORDAN HULL,
9 (of lawful age, having been sworn, testified as
10 follows:)

11 DIRECT EXAMINATION BY MR. GRAHAM:

12 Q. Mr. Hull, would you state your full name,
13 please?

14 A. Jordan Hull. J-o-r-d-a-n, last name Hull,
15 H-u-l-l.

16 Q. Jordan, whom are you employed by and in
17 what capacity?

18 A. Missouri Public Service Commission as an
19 associate engineer in the energy resources
20 division.

21 Q. And, Mr. Hull, have you prepared testimony
22 in this case?

23 A. Yes.

24 Q. And is that testimony, to your knowledge,
25 marked as Exhibit 100?

1 A. Yes.

2 Q. And is that surrebuttal testimony?

3 A. It's rebuttal.

4 Q. I'm sorry, rebuttal.

5 And in addition, did you -- were you --
6 did you participate in the preparation of
7 what's now been denominated or designated
8 as Exhibit No. 105, which was testimony in
9 the form of a memorandum that was attached
10 and in support of suggestions that staff
11 filed last week in response to the
12 non-unanimous stipulation?

13 A. Yes.

14 Q. That was a long way of identifying it,
15 wasn't it?

16 A. It was very long.

17 Q. Yes. And were there two exhibits that were
18 referred to within that exhibit, namely 104
19 and -- I'm sorry, 103 and 104?

20 A. Yes.

21 Q. Okay. Now, with respect to all of those
22 exhibits, with respect to your role in them
23 and in preparing them, are there any
24 mistakes or changes that you need to make?

25 A. Not that I'm aware of.

1 Q. And if the questions or the information
2 that you elicited there, if the questions
3 were put to you with respect to that
4 information, would you provide the same
5 information or would your answers otherwise
6 be the same?

7 A. Yes, they'd be closely the same.

8 Q. And to the best of your knowledge and
9 belief, were all of those answers and that
10 information that you provided, to the
11 extent that it required truthfulness and
12 accuracy, were they truthful and accurate?

13 A. Yes.

14 MR. GRAHAM: Okay. I'm going to
15 offer at this time -- I believe all
16 three witnesses who sponsored Exhibit
17 No. 105 have now testified with respect
18 to that exhibit here, so at this time
19 I'm going to offer Exhibit 100, 103,
20 104 and 105.

21 JUDGE SEYER: Any objections?

22 MS. WHIPPLE: Judge, no
23 objections, although we would renew our
24 request correspondingly to admit
25 Exhibit 7, which is the Brian File

1 testimony in support of the
2 non-unanimous stipulation and
3 agreement.

4 JUDGE SEYER: All right. So
5 let's revisit that.

6 Is there any objection now to
7 Exhibit 7?

8 MR. CLIZER: Yes. John Clizer
9 from OPC. I'm going to maintain my
10 written filed objection to Exhibit 7.

11 JUDGE SEYER: All right. And
12 that is --

13 MR. CLIZER: Or if necessary,
14 formally make the same objection at
15 this time, however you want to take it.

16 JUDGE SEYER: That is -- can you
17 identify that document that it's
18 attached to?

19 Is it -- it's basically the
20 objection to the non-unanimous
21 stipulation and agreement, correct?

22 MR. CLIZER: No.

23 JUDGE SEYER: Oh, I'm sorry.

24 MR. CLIZER: There were two
25 documents filed in EFIS on May 21st by

1 the OPC. One was the objection to the
2 non-unanimous stipulation and agreement
3 and the other was a response to motion
4 for leave, objection or in the
5 alternative motion to suspend the
6 procedural schedule.

7 I don't know off the top of my
8 head what the EFIS numbers are, but I
9 can get that to you later. The
10 objection is lodged exclusively in the
11 second document. The objection to the
12 stipulation is of course an objection
13 to the stipulation from a procedural
14 standpoint but not to its admittance.

15 JUDGE SEYER: All right. And it
16 looks like that's EFIS item number 43.

17 I'm going to overrule that
18 objection.

19 And Exhibits 100, 103, 104 and
20 105 are admitted.

21 MS. WHIPPLE: And, Judge, thank
22 you.

23 Is Exhibit 7 admitted?

24 JUDGE SEYER: Yes, Exhibit 7 is
25 also admitted.

1 MS. WHIPPLE: Thank you so much.

2 MR. GRAHAM: Staff tenders the
3 witness.

4 JUDGE SEYER: All right,
5 Mr. Clizer.

6 MR. CLIZER: Thank you.

7 CROSS-EXAMINATION BY MR. CLIZER:

8 Q. Good afternoon, Mr. Hull.

9 A. Good afternoon.

10 Q. Were you here earlier when I had a
11 conversation with Everyg witness Meitner
12 and then later with Everyg witness File
13 regarding resource adequacy?

14 A. Yes, in general.

15 Q. And after I had that conversation, Mr. File
16 had a redirect question that I feel like
17 introduced potentially some confusion, so I
18 want to do a quick followup with you, and
19 it's going to be the same line of
20 questioning that I've already gone through.

21 MS. WHIPPLE: Judge, I'm sorry,
22 I am -- I am going to interpose an
23 objection here. This cross-examination
24 is again against a party whose
25 interests have been adopted entirely by

1 OPC and the purpose of the questioning
2 is to perpetuate testimony that is
3 favorable to both OPC and staff. It's
4 not true cross-examination.

5 Other parties don't have an
6 opportunity to do this. Evergy and
7 Nucor have not done it. And I just --
8 it's not fair and I don't think it
9 should continue and I would object.

10 MR. CLIZER: May I respond?

11 JUDGE SEYER: Yes.

12 MR. CLIZER: First of all, it's
13 not a basis for an actual objection.
14 The entire purpose of cross-examination
15 is to develop my case, which I am
16 entitled to do.

17 Second, I want to mention that
18 we are not on the same page as staff.
19 I filed a separate objection to the
20 stipulation and agreement and staff
21 previously alluded to the fact that it
22 believed that it could actually get
23 behind the stipulation if certain
24 changes were made, which is not a
25 position shared by the OPC.

1 Second, I am not asking to
2 perpetuate testimony that's already in
3 the record. I'm attempting to address
4 a concern that arose directly because
5 of cross-examination of two Evergy
6 witnesses that was further redeveloped
7 on redirect examination.

8 And third, I'd like to throw out
9 -- actually, I think that's fourth.
10 I'd like to throw out that the general
11 notion of whether or not we can
12 actually have a separate alternative
13 that would allow for resource adequacy
14 is an issue that this Commission should
15 generally want to have answered per the
16 course of this entire case.

17 And I will also throw out that
18 the idea that they weren't available to
19 staff counsel, they were available to
20 staff counsel. Nucor had every
21 opportunity to friendly cross Evergy's
22 witnesses. They did not avail
23 themselves to that.

24 And Nucor -- sorry. And Evergy,
25 for that matter, have further

1 cross-examination after this, so they
2 can test whatever I have to say to
3 Mr. Hull. The entire purpose of
4 ordering cross-examination in this
5 manner is to allow for that exact
6 situation.

7 MS. WHIPPLE: Quick response,
8 Judge.

9 JUDGE SEYER: Uh-huh.

10 MS. WHIPPLE: The OPC, like
11 every other party, has an opportunity
12 to redirect its own witnesses should
13 those witnesses get questions on cross
14 or from the Bench, and that would be
15 the venue for Mr. Clizer's questions,
16 not friendly cross with staff.

17 JUDGE SEYER: All right. I'm
18 going to overrule your objection.

19 Q. (By Mr. Clizer) In Mr. File's response in
20 the redirect, he referred to the MBDR. I
21 do not want to discuss the MBDR. So I'm
22 going to try and pose the same question to
23 you that I had posed previously.

24 Is there anything preventing Evergy
25 from putting a tariff forward right now

1 that would allow a customer like Nucor to
2 participate in SPP demand response programs
3 outside of MEEIA that would still allow for
4 them to be included for resource adequacy
5 purposes in Evergy's workbooks excluding
6 the MBDR?

7 A. No, they can participate in those programs
8 and they can count it toward resource
9 adequacy.

10 (Court Reporter clarification.)

11 A. They can count it towards resource
12 adequacy.

13 Q. (By Mr. Clizer) To be clear for the
14 record, your first part of that answer was
15 no, that --

16 A. There's nothing excluding it.

17 Q. Thank you very much.

18 MR. CLIZER: I have no further
19 questions.

20 JUDGE SEYER: All right.

21 Mr. Briscar, any cross by Nucor?

22 MR. BRISCAR: Yes, Judge, very
23 briefly.

24 CROSS-EXAMINATION BY MR. BRISCAR:

25 Q. Good afternoon -- good afternoon, Mr. Hull.

1 How are you?

2 A. Good afternoon. I'm good.

3 Q. My name is Joseph Briscar, I represent
4 Nucor in this matter.

5 Do you have a copy of your testimony in
6 front of you?

7 A. Yes.

8 Q. Let me see. On pages 8 and 9 generally and
9 throughout your testimony, you discussed
10 the SPP verification process for demand
11 response, right?

12 A. Yep.

13 Q. And the SPP programs are governed by the
14 SPP tariffs and market rules, right?

15 A. Correct.

16 Q. And those governing documents are approved
17 by FERC?

18 A. Yes.

19 Q. And FERC regulates SPP?

20 A. Correct.

21 Q. And the business demand response rules are
22 governed by the Evergy tariff and program
23 rules, right?

24 A. Yes.

25 Q. And this Commission regulates Evergy's

1 tariffs?

2 A. Yes.

3 Q. And the Commission approved the currently
4 effective Evergy tariff and MEEIA program
5 rules, correct?

6 A. Yes, but Nucor wasn't in that.

7 Q. I'm just asking if the Commission approved
8 the current rules.

9 A. They approved Cycle 4.

10 Q. And the tariff language and the rules under
11 the program?

12 A. Yes.

13 Q. No further questions. Thank you.

14 JUDGE SEYER: All right.

15 Ms. Whipple.

16 MS. WHIPPLE: Thank you, Judge.

17 CROSS-EXAMINATION BY MS. WHIPPLE:

18 Q. Mr. Hull, in your rebuttal testimony, you
19 testified that Nucor previously
20 participated in EMW's business demand
21 response program from April 1, 2021 through
22 March 31, 2023, correct?

23 A. I think that was the MEEIA prudence review,
24 review period.

25 MS. WHIPPLE: All right. And,

1 Judge, I have I think just one
2 question, but I need to use
3 confidential information, if we could
4 go in camera.

5 JUDGE SEYER: All right, let's
6 go in camera.

7 (The following portion of the
8 hearing is being held in camera, pages
9 200 and 201.)

10 (Lines 13 through 25 on page 199
11 are intentionally blank, due to the in
12 camera portion of the hearing.)

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1 (The in camera portion of the
2 hearing has concluded, and the hearing
3 continues on page 202, as follows:)

4 Q. (By Ms. Whipple) Those historical
5 curtailments, the numbers we discussed in
6 camera, those delivered load reductions to
7 EMW's system, correct?

8 A. I mean they weren't supposed to be in that
9 program at all. At that time period, they
10 weren't allowed to.

11 Q. That's not the question I asked you, is it?
12 Should I ask it again?

13 A. Sure.

14 Q. Okay. Those historical curtailments
15 delivered load reductions to EMW's system,
16 correct?

17 A. That's what your data request said.

18 Q. Okay. And do you have any reason to
19 believe that's not correct?

20 A. No.

21 Q. Thank you. In your rebuttal testimony, you
22 discussed what you called pathways,
23 essentially non-MEEIA alternatives for
24 Nucor to participate in demand response; is
25 that right?

1 A. Yes.

2 Q. Your first proposed alternative to MEEIA
3 would be for Nucor to participate directly
4 in SPP's wholesale demand response market
5 as a block demand response resource; is
6 that right?

7 A. That is one option, yes.

8 Q. Under the SPP demand response construct,
9 payments are made to the registered market
10 participant, which could be a utility, a
11 retail provider or an aggregator, right?

12 A. Correct.

13 Q. The end use customer like Nucor is then
14 compensated through a private contractual
15 arrangement with that market participant;
16 is that right?

17 A. Yes, so Evergy would be the market
18 participant in that.

19 Q. Unless the market participant is, for
20 example, an aggregator, correct?

21 A. Correct.

22 Q. Whether SPP credits a demand response
23 resource toward Evergy's resource adequacy
24 obligation depends on whether it is
25 registered as the load responsible entity,

1 correct?

2 A. Can you restate that?

3 Q. Sure. I'll just say it this way.

4 A. That wasn't a question, that's why I asked.

5 Q. EMW is the load responsible entity for
6 purposes of SPP resource adequacy, correct?

7 A. Yeah.

8 Q. And so if SPP is going to credit a demand
9 response resource toward Evergy's resource
10 adequacy obligation, then Evergy has to be
11 the registered market participant for that,
12 correct?

13 A. The LRE, yes.

14 Q. Okay. And so we talked about aggregators
15 of retail customers and ARC. That's one of
16 the other pathways that you testified about
17 in your rebuttal testimony, correct?

18 A. It's a way, yes.

19 Q. You're not aware of any specific ARC
20 contract today between Nucor and a
21 third-party aggregator, correct?

22 A. Not that I'm aware of.

23 Q. Isn't it true that ARCs participate in
24 SPP's energy and ancillary services market?

25 A. Yes, but you can still get credit for it if

1 you participate through Evergy for resource
2 adequacy.

3 Q. You used the pronoun "you" a couple of
4 times in there. I don't know what you're
5 referring to.

6 A. Evergy.

7 Q. Okay.

8 A. EMW if you'd prefer.

9 Q. Maybe I'll just clarify your response by
10 asking my question.

11 ARCs can participate in SPP's energy
12 and ancillary services markets, correct?

13 A. Yeah, but they don't get -- Evergy would
14 not get credit for that in the resource
15 adequacy --

16 Q. Correct.

17 A. -- if that's where you're going.

18 Q. Correct. Yes, thank you for that.

19 And there's no capacity market in SPP,
20 right?

21 A. Not currently, but I'm glad you asked that.

22 Q. Are you aware that there are --

23 A. Hold on. Can I finish my answer?

24 MR. GRAHAM: The witness is not
25 done with his answer.

1 THE WITNESS: Right.

2 MS. WHIPPLE: Oh, you already
3 answered my question.

4 MR. GRAHAM: Not to his
5 satisfaction. I object.

6 (Court Reporter clarification.)

7 MR. GRAHAM: Paul Graham. Staff
8 attorney Paul Graham.

9 The witness is entitled to
10 answer the question to his
11 satisfaction, not the lawyer's.

12 MS. WHIPPLE: Oh, he did answer
13 the question, your Honor.

14 If, you know, you would like to
15 perpetuate additional testimony on
16 that, Mr. Graham, you can do it on
17 redirect.

18 JUDGE SEYER: I agree, I agree.

19 MS. WHIPPLE: Thank you.

20 MR. CLIZER: Your Honor, John
21 Clizer.

22 JUDGE SEYER: Yes.

23 MR. CLIZER: I actually think
24 the only answer we got was I'm glad you
25 asked that.

1 MS. WHIPPLE: No, he -- he said
2 I agree and I'm glad you asked that
3 question.

4 MR. CLIZER: Oh, I apologize. I
5 thought I only heard the second half.

6 Q. (By Ms. Whipple) Are you aware that there
7 are no third-party ARCs providing resource
8 adequacy credit to Evergy today?

9 A. I think we already said that ARCs couldn't
10 provide resource adequacy to Evergy.

11 Q. So the answer to my question is yes?

12 A. To which question?

13 Q. That there are no third-party ARCs
14 providing resource adequacy credit to
15 Evergy today?

16 A. I don't know the answer to that.

17 Q. Well, if you believe that ARCs cannot
18 provide resource adequacy credit to Evergy,
19 then would it follow that that's not
20 currently happening today either?

21 MR. GRAHAM: Object,
22 argumentative.

23 JUDGE SEYER: I'll overrule that
24 objection.

25 A. Can you ask it again?

1 Q. (By Ms. Whipple) You testified previously
2 that you don't believe ARCs can provide
3 resource adequacy credit to Evergy,
4 correct?

5 A. Correct.

6 Q. And so would it follow that resource
7 adequacy is not being credited to Evergy
8 today by any third-party ARCs?

9 A. I have not seen any contract saying that.

10 Q. The third proposed alternative you have for
11 Nucor to participate in SPP demand response
12 is through EMW's existing schedule MBDR,
13 which is the market-based demand response
14 tariff, right?

15 A. Yes.

16 Q. And you testified in your rebuttal
17 testimony that there are no current
18 participants in that MBDR tariff, correct?

19 A. As far as I know, yes.

20 Q. And you're aware that the MBDR tariff by
21 its own terms is available to existing BDR
22 participants, correct?

23 A. Correct, but I think it could be amended
24 just like the SIL tariff.

25 Q. The purpose of the MBDR tariff is to enable

1 a participating customer who's already a
2 BDR participant to also engage in SPP's
3 ancillary services and energy market
4 activity, correct?

5 A. Can you restate that?

6 Q. The purpose of the MBDR tariff is to enable
7 a participating customer who is also
8 already a BDR participant to engage in
9 SPP's ancillary services and energy market?

10 A. I think that's one.

11 Q. And isn't it true that in general customers
12 are prohibited from participating in both
13 an ARC and EMW's BDR program for double
14 counting concerns?

15 A. I think that's a legal question.

16 Q. Do you know the answer to it?

17 A. It says in there --

18 MR. GRAHAM: Objection, he's
19 indicated that he's not competent to
20 answer the question. It's a legal
21 question in his mind.

22 MS. WHIPPLE: It is, first of
23 all, not a legal question. Even if he
24 thought it was a legal question, I'm
25 simply asking if he knows the answer to

1 it.

2 JUDGE SEYER: You can answer the
3 question whether or not you know.

4 A. It does mention both of them in that, if
5 that's your question.

6 Q. (By Ms. Whipple) Do you know if customers
7 are prohibited from participating in an ARC
8 and EMW's BDR program at the same time?

9 MR. GRAHAM: Objection, calls
10 for a legal question.

11 JUDGE SEYER: I don't know -- I
12 don't know that it does. I think you
13 can answer -- I'll overrule that
14 objection. You can answer.

15 A. Of an ARC and MBDR?

16 Q. (By Ms. Whipple) Yes.

17 A. I have no idea.

18 Q. Okay. If the Commission prohibits Nucor
19 from participating in the MEEIA BDR
20 program, that would also mean that Nucor
21 cannot participate in the MBDR existing
22 tariff, right?

23 MR. GRAHAM: Your Honor, I'm
24 going to object. What I hear here is
25 counsel writing her brief through this

1 witness's mouth with legal arguments
2 laced with facts, legal arguments laced
3 with facts, argument, inference,
4 conclusion. She's just writing a brief
5 here and it's a completely
6 argumentative line of question.

7 MS. WHIPPLE: Your Honor, this
8 witness has been proffered as an expert
9 in tariffs and non-MEEIA alternatives
10 and I'm asking about what's in his
11 testimony and the permutations of that.
12 If he can't testify that because it's a
13 legal conclusion, then I'd like that to
14 be on the record about his testimony.

15 JUDGE SEYER: All right. I'm
16 going to overrule that objection. You
17 can answer the question.

18 A. Can you repeat the question for me?

19 Q. (By Ms. Whipple) If the Commission denies
20 Nucor's BDR participation, then it follows
21 that under the MBDR tariff's existing
22 terms, Nucor couldn't participate in that
23 either, right?

24 A. Not currently, but I already said it can be
25 amended just like the SIL tariff is going

1 to have to be.

2 Q. That's what your opinion is, correct?

3 A. That's what you're asking.

4 Q. Yeah, that's not tariffs today. It's just
5 your opinion that --

6 A. Well, tariffs today say that you can't even
7 be participating.

8 Q. That's right, yes.

9 You also testify that SPP block demand
10 response resource program and EMW's BDR
11 program apply different reporting and
12 verification standards. You testify about
13 that, right?

14 A. That is correct.

15 Q. Isn't it true that the more stringent
16 baseline telemetry and settlement
17 requirements that you talk about with
18 regard to SPP in the SPP open access
19 transmission tariff are applying to market
20 registered demand response participating in
21 the energy and ancillary services market?

22 A. Yes, but they're also opening that up to --
23 that's what I was trying to get to earlier,
24 before. So there's actually tariff
25 language for -- SPP proposes to a credit

1 capacity for demand response resources and
2 they can count towards the amount of
3 capacity. That was a proposal that SPP had
4 on April 17th of 2026.

5 So as of right now, I think it's energy
6 and ancillary services, but it's opening
7 up, and I think that's the pathway that
8 they're moving based on --

9 Q. And that's not -- those changes are not in
10 place?

11 A. No, but it's in tariff language from last
12 month.

13 Q. And the MEEIA BDR program is not registered
14 as a market participant in the energy and
15 ancillary services market of SPP today,
16 correct?

17 A. No.

18 Q. The purpose of the MEEIA BDR program is to
19 deliver resource adequacy value to EMW as
20 the load responsible entity, correct?

21 A. Yeah, but you could do that through SPP,
22 too.

23 Q. That's your opinion, right?

24 A. That's what their tariff says. I -- I have
25 not seen anything in -- in -- in SPP's

1 tariff saying that you could not
2 participate.

3 Q. I'm trying to -- you were -- you were
4 talking about a future tariff that's not in
5 effect. And are you now talking about the
6 currently in effect SPP open access
7 transmission tariff?

8 A. Yeah.

9 Q. Okay. So let me just make sure that I
10 understand what you're saying.

11 A. Okay.

12 Q. Under the current SPP open access
13 transmission tariff, the MEEIA BDR program
14 offered by EMW is not registered as a
15 market participant in SPP's energy and
16 ancillary services market?

17 A. That's correct.

18 Q. Okay, thank you.

19 Now, when you're talking about the
20 non-MEEIA alternatives in your rebuttal
21 testimony, isn't it true that you testified
22 that they still require this Commission to
23 approve an amendment to Nucor's SIL
24 contract before Nucor could participate or
25 pursue any of them?

1 A. Yeah, I have language in my rebuttal.

2 Q. And isn't it also true that you have not
3 independently verified that the alternative
4 pathways would in fact deliver SPP resource
5 adequacy value to EMW as the load
6 responsible entity?

7 A. Can you restate that?

8 Q. Isn't it true that you have not
9 independently verified, in that you haven't
10 contacted SPP, for instance, that any of
11 the proposed alternative pathways would
12 deliver resource adequacy value to EMW as
13 the load responsible entity today?

14 A. I have listened to working groups on the S
15 -- in SPP and I haven't seen a reason why
16 they couldn't.

17 Q. Are you the correct witness to ask
18 questions about staff's clawback condition
19 proposed in the staff memorandum filed in
20 response to the non-unanimous stipulation
21 and agreement?

22 A. No.

23 Q. Who would that witness be?

24 A. I think that would be Justin Tevie.

25 Q. Okay. Are you aware -- I'll just ask you.

1 Are you aware if that proposed clawback
2 condition is referring to clawing back
3 MEEIA participation costs and routing them
4 through the SIL tariff's hold harmless
5 provision?

6 A. I'm not sure.

7 Q. Okay. Do you know all of the requirements
8 of SPP for participating in their block
9 demand response/dispatchable demand
10 response tariffs?

11 A. I read the tariff.

12 Q. Do you know if the requirements are the
13 same or different from the requirements to
14 participate in the MEEIA BDR program?

15 A. They're different. They have more
16 guardrails.

17 Q. Do you know whether SPP in fact verifies
18 resource adequacy value in the MEEIA BDR
19 program?

20 A. If SPP -- say that again.

21 Q. If SPP is going to credit EMW against its
22 resource adequacy obligation because of the
23 MEEIA BDR program, you're aware that SPP
24 verifies that?

25 A. Yeah, but they couldn't credit them the

1 same as if they were in the demand response
2 program because there's different
3 baselines.

4 Q. They're different. But SPP verifies the
5 resource adequacy obligation credit that
6 EMW would receive because of participation
7 in the MEEIA BDR program, right?

8 A. I believe so.

9 Q. Okay.

10 MS. WHIPPLE: No further
11 questions.

12 JUDGE SEYER: All right.

13 Chair Hahn, you have questions?

14 CHAIR HAHN: Yes.

15 Good afternoon, Mr. Hull.

16 THE WITNESS: Good afternoon.

17 CHAIR HAHN: I feel like we need
18 some clarification here, so I'm going
19 to make some statements and I want to
20 ask if you agree.

21 At SPP, market register demand
22 response, or DR, cannot be used for
23 resource adequacy currently, it can
24 only be claimed as a load reduction
25 from the LRE or load responsible

1 entity's peak demand forecast?

2 THE WITNESS: That's false.

3 They can get credit for resource
4 adequacy right now.

5 CHAIR HAHN: Under what program?

6 THE WITNESS: Under SPP's
7 tariff.

8 CHAIR HAHN: I don't believe
9 that's the case, but they could in the
10 future under revision request 703 on
11 the formal framework for DR and LRE
12 peak demand assessments, correct, which
13 is currently being --

14 THE WITNESS: Capacity. Are you
15 talking capacity?

16 CHAIR HAHN: Capacity.

17 THE WITNESS: Yeah. I'm -- I'm
18 talking resource adequacy. You can get
19 resource adequacy credit,
20 accreditation, but you can't get
21 capacity credit until they decide what
22 to do with this proposal.

23 CHAIR HAHN: My understanding
24 from SPP is that the reduction is taken
25 into account in the net peak demand,

1 which is used as the load forecast
2 benchmark for ensuring compliance with
3 the resource adequacy requirement.

4 THE WITNESS: Can you say that
5 again? That was a lot of words.

6 CHAIR HAHN: Of course.
7 Currently, demand response for resource
8 adequacy purposes can only be claimed
9 as a load reduction against the load
10 responsible entity's, LRE's, peak
11 demand forecast.

12 This reduction is taken into
13 account in the net peak demand, which
14 is used as the load forecast benchmark
15 for ensuring compliance with the
16 resource adequacy requirement.

17 Revision request 703 --

18 THE WITNESS: Yes --

19 CHAIR HAHN: Okay.

20 THE WITNESS: -- I agree with
21 that.

22 CHAIR HAHN: Okay.

23 THE WITNESS: We have -- we have
24 a data request from Evergy saying that
25 they can use it for -- in the resource

1 adequacy workbooks. That would be
2 DR 20. Do you want me to read it?

3 CHAIR HAHN: That would be
4 helpful.

5 THE WITNESS: Per discussion
6 with SPP, Evergy as the LRE can utilize
7 Evergy market registered DR programs in
8 our resource adequacy workbooks. To
9 reduce our net peak demand, Evergy does
10 not currently have any market
11 registered program for block demand
12 response or dispatchable demand
13 response.

14 CHAIR HAHN: I think that's in
15 line with what I'm saying.

16 THE WITNESS: Okay.

17 CHAIR HAHN: That's --

18 THE WITNESS: Maybe I was
19 misunderstanding you.

20 CHAIR HAHN: Uh-huh. Okay. So
21 they can't count it actually toward
22 capacity for resource adequacy purposes
23 until FERC litigates revision request
24 703?

25 THE WITNESS: Correct.

1 CHAIR HAHN: Okay.

2 THE WITNESS: I think that's
3 where we were.

4 CHAIR HAHN: Yeah. Okay.

5 THE WITNESS: Okay.

6 CHAIR HAHN: We got it.

7 THE WITNESS: Yeah.

8 CHAIR HAHN: Thank you.

9 JUDGE SEYER: Do any other
10 Commissioners have questions?

11 All right.

12 I have kind of a -- just kind of
13 a general question. Staff has filed
14 their objection to this non-stipulation
15 -- or non-unanimous stipulation and
16 agreement, but are there any provisions
17 in that stip and agreement that staff
18 could support?

19 THE WITNESS: I think there was
20 certain ones. I would have to read it
21 again.

22 JUDGE SEYER: Do you need a --
23 do you need a second to look at it?

24 THE WITNESS: I would say me
25 personally, no, but staff might have

1 different opinions. I -- I am more --
2 I think the SPP's program is putting up
3 the guardrails that need to be in place
4 to have successful demand response
5 that's actually competitive and shows
6 actually what that capacity is worth.

7 JUDGE SEYER: In witness
8 Meitner's surrebuttal in response to
9 your rebuttal, he stated that the other
10 demand response programs that you --
11 that staff has suggested as
12 alternatives for Nucor do not provide
13 adequate -- provide resource adequacy
14 benefits.

15 Should demand response
16 activities provide resource adequacy
17 benefits? Is -- is --

18 THE WITNESS: I think in SPP
19 they have to.

20 JUDGE SEYER: Okay.

21 THE WITNESS: Because there's no
22 capacity market.

23 JUDGE SEYER: Okay. All right,
24 Mr. Clizer, do you have recross?

25 RE-CROSS-EXAMINATION BY MR. CLIZER:

1 Q. First, you referenced DR 20. Is that
2 attached to your testimony in any way?

3 A. I think so. I do not know off the top of
4 my head.

5 MR. CLIZER: Because it was
6 referenced and read in, I would move
7 that it be admitted as an exhibit and
8 I'll offer it as an OPC exhibit if
9 necessary. That's more for the
10 completeness of the record than
11 anything. If it is already attached,
12 then obviously I don't need it.

13 JUDGE SEYER: Mr. Graham, do you
14 know if that's attached?

15 THE WITNESS: I can look real
16 fast.

17 MR. GRAHAM: Help me again with
18 what it is. I tried to understand what
19 you were referring to, but I --

20 MR. CLIZER: Staff data request
21 20 answer.

22 MR. GRAHAM: I do not know.
23 Let's see what he says.

24 THE WITNESS: I don't think it
25 is, actually. It might be in the memo.

1 MS. WHIPPLE: Company has no
2 objection to admitting it as an exhibit
3 and don't care whose exhibit it is.

4 MR. CLIZER: Again, I'm --
5 really just more for the completeness
6 of the record. I'll offer it as OPC
7 Exhibit 202 and get a copy in. It's
8 staff DR -- sorry. It's the response
9 to staff DR 20.

10 JUDGE SEYER: All right. Do any
11 other parties have any objection to
12 that coming into evidence?

13 All right, then Exhibit 202 --
14 correct, 202?

15 MR. CLIZER: I have 202.

16 JUDGE SEYER: Okay.

17 -- is admitted.

18 Q. (By Mr. Clizer) I don't know if I want to
19 ask any further questions on the
20 conversation you had with the Chair because
21 I think I'm going to confuse myself, but
22 I'm going to do just one to see if I can.

23 Do you agree with what Judge Seyer read
24 regarding the surrebuttal testimony offered
25 against your position on the resource

1 adequacy, that the -- that the alternative
2 you recommended do not offer resource
3 adequacy?

4 A. I think they do -- you can offer it in --
5 they've said you can -- they can use it in
6 their workbook.

7 Q. All right.

8 MR. CLIZER: I have no further
9 recross. Thank you.

10 JUDGE SEYER: All right.

11 Mr. Briscar.

12 MR. BRISCAR: No questions.

13 JUDGE SEYER: All right.

14 Ms. Whipple.

15 Ms. Whipple: None, thank you.

16 JUDGE SEYER: Mr. Graham, any
17 redirect?

18 MR. GRAHAM: No.

19 JUDGE SEYER: All right.

20 Mr. Hull, thank you for your testimony.

21 THE WITNESS: Thank you.

22 JUDGE SEYER: Let's take a break
23 at this point and reconvene at 2:30.

24 (Whereupon, a break was taken.)

25 JUDGE SEYER: All right. At

1 this time the Commission would like to
2 re-call JP Meitner to the stand.

3 Mr. Meitner, you're already
4 under oath, so if you could just take a
5 seat.

6 JP MEITNER,
7 (having been previously sworn, further testified
8 as follows:)

9 JUDGE SEYER: Chair Hahn.

10 CHAIR HAHN: Good afternoon. I
11 apologize for doing this, but I think a
12 lot of confusion was potentially
13 created. I think there's some part of
14 your surrebuttal that can be helpful.

15 THE WITNESS: Okay.

16 CHAIR HAHN: So I just want to
17 clear up a couple things about resource
18 adequacy at SPP.

19 THE WITNESS: Sure.

20 CHAIR HAHN: Okay. When we say
21 resource adequacy used in your
22 workbook, it is -- it means different
23 things. It can mean accredited
24 capacity, it can mean a calculation as
25 far as your peak demand forecast, it

1 can mean a few different things.

2 In your surrebuttal, you say
3 that Evergy's current programs do not
4 allow you to reduce the company's net
5 peak demand. Is that still your --

6 THE WITNESS: The point I'm
7 trying to make is when looking at the
8 tariffs, the Evergy tariffs available
9 today, the only tariff that allows for
10 resource adequacy treatment is MEEIA
11 BDR.

12 CHAIR HAHN: Okay. And MEEIA
13 BDR is the only one as far as capacity
14 accreditation that you get credit for
15 in resource adequacy at SPP?

16 THE WITNESS: Correct. And the
17 -- and the demand response portion
18 would be taken against the peak load
19 forecast.

20 CHAIR HAHN: Thank you.

21 THE WITNESS: Uh-huh.

22 JUDGE SEYER: All right. Do any
23 of the parties have followup questions?
24 And I'll begin with Nucor.

25 MR. BRISCAR: No, your Honor.

1 JUDGE SEYER: All right. Staff.

2 MR. GRAHAM: No, your Honor.

3 JUDGE SEYER: Public Counsel.

4 (Court Reporter clarification.)

5 MR. CLIZER: I haven't supplied
6 one yet. I apologize. That was
7 someone speaking.

8 Yeah, so very briefly. John
9 Clizer on behalf of OPC.

10 RE-CROSS-EXAMINATION BY MR. CLIZER:

11 Q. Your testimony is that right now the only
12 existing tariff is Evergy's MEEIA BDR
13 program, that's what you've testified to,
14 correct? Oh, sorry, let me -- let me
15 clarify that. Let me --

16 You've testified the only tariff
17 available to meet the resource adequacy
18 through SPP for the demand response program
19 is Evergy's MEEIA BDR program; is that
20 right?

21 A. The MEEIA BDR program would be the only
22 avenue to supply the demand response
23 towards Evergy Missouri West's resource
24 adequacy process via the -- the net load or
25 the -- the load forecast.

1 Q. Does Evergy -- for purposes of meeting
2 resource adequacy, does SPP look at Evergy
3 West as a standalone or combined with
4 Evergy Metro?

5 A. Evergy Missouri West is a load responsible
6 entity. As far as the resource adequacy
7 process, SPP views it as a combined entity.

8 Q. And would you agree with me that right now
9 Evergy as a combined entity meets its
10 resource adequacy requirement today?

11 A. For the summer of 2026, it was sufficient
12 or -- or cured of any deficiencies.

13 Q. So a short answer would be yes?

14 A. For the summer of 2026 is what I was
15 clarifying, the answer would be yes.

16 Q. And then again, my last question really --
17 well, I shouldn't say that. It's never the
18 last.

19 Could Evergy create a tariff that would
20 allow --

21 MR. STEINER: I'm going to
22 object. This is beyond the scope of
23 Chair Hahn's questions. She asked what
24 --

25 (Court Reporter clarification.)

1 MR. STEINER: This is Roger
2 Steiner with Evergy.

3 This goes beyond the scope of
4 Chair Hahn's questions. She didn't ask
5 about future tariffs, she asked about
6 what the existing tariff said.

7 MR. CLIZER: Did she? I thought
8 that her question generally was trying
9 to get clarification as to the
10 testimony provided in his surrebuttal.

11 MR. STEINER: The questions were
12 directed to Evergy's current process.

13 MR. CLIZER: As far as the
14 questions relate to the testimony, his
15 surrebuttal, let me ask you a question,
16 then directed to the language in his
17 surrebuttal. Would that be sufficient?

18 MR. STEINER: That's also
19 beyond her questions. She had one
20 question. We're already up to five
21 followups.

22 MR. CLIZER: Since when does the
23 number of questions matter?

24 MR. STEINER: When it's
25 3 o'clock in the afternoon.

1 JUDGE SEYER: I'll overrule the
2 objection.

3 MR. CLIZER: I will try and keep
4 this short.

5 Q. (By Mr. Clizer) At page 3 of your
6 surrebuttal testimony beginning at line 1,
7 it reads, Everygy does not currently have
8 any market registered programs for block
9 demand response or dispatchable demand
10 response programs.

11 Do you see that in your testimony?

12 A. I don't have my testimony with me.

13 Q. I apologize.

14 MR. CLIZER: Would parties
15 object if I handed him my copy?

16 MR. STEINER: Go ahead. Go
17 ahead, your Honor. Go ahead, John.

18 THE WITNESS: I can go back and
19 get a copy. I wasn't -- I didn't
20 realize --

21 MR. CLIZER: It's fine.

22 THE WITNESS: Okay.

23 Q. (By Mr. Clizer) I'm just looking at that
24 -- that language in that bracket, it's
25 beginning on line -- the sentence beginning

1 on line 1, continuing to line 2. I can't
2 repeat it because I don't have it in front
3 of me now, but is it hopefully consistent
4 with what I just read?

5 A. Yeah. Yes, it says -- you want me to read
6 it?

7 Q. Go ahead.

8 A. Evergy does not currently have any market
9 registered programs for block demand
10 response or dispatchable demand response.

11 Q. You would agree with me that Evergy could
12 create programs?

13 MR. STEINER: Again, this is
14 beyond the scope of Chair Hahn's
15 questions.

16 JUDGE SEYER: I'm going to
17 overrule that. You can answer the
18 question.

19 A. This question was asked of me earlier
20 and I deferred it to witness File. I'm --
21 I'm not the expert on the Evergy tariffs.

22 Q. (By Mr. Clizer) All right, thank you.

23 MR. CLIZER: I have no further
24 questions. I would ask for that back,
25 though.

1 THE WITNESS: (Indicating.)

2 MR. CLIZER: Thank you.

3 JUDGE SEYER: Okay. Any
4 questions by Everygy?

5 MR. STEINER: No, your Honor.
6 That's Roger Steiner.

7 JUDGE SEYER: All right, thank
8 you.

9 And I believe we are to the
10 point where we are going to have
11 testimony from the Public Counsel's
12 witnesses; is that correct?

13 Mr. Clizer, is that correct?

14 MR. CLIZER: That's to my
15 recollection.

16 JUDGE SEYER: Call your first
17 witness.

18 MR. CLIZER: The OPC would call
19 Manzell Payne.

20 JUDGE SEYER: Mr. Payne, you've
21 got your right hand raised. Thank you.

22 MANZELL PAYNE,
23 (of lawful age, having been sworn, testified as
24 follows:)

25 DIRECT EXAMINATION BY MR. CLIZER:

1 Q. Mr. Payne, can you please state and spell
2 your name for the record?

3 A. Yes. Manzell Payne, M-a-n-z-e-l-l, last
4 name is P-a-y-n-e.

5 Q. And have you prepared or caused to be --
6 caused to be prepared testimony which has
7 been premarked Exhibit 200, the surrebuttal
8 testimony of Manzell Payne, public and
9 confidential?

10 A. Yes.

11 Q. Do you have any corrections you need to
12 make to that testimony?

13 A. I actually do, yes. Very briefly.

14 Q. Would you please explain those questions
15 and identify the page number on which they
16 were -- sorry, those corrections and
17 identify the page number on which they
18 would occur?

19 A. Yes. Page 1 of my surrebuttal, question
20 21, What is the purpose of your direct
21 testimony? That should be surrebuttal
22 testimony.

23 Page 2, line 10, Mr. Hull's testimony
24 elaborates on why Nucor's special rate --
25 it actually should -- there's -- the word

1 "why" should not be there. It should be
2 crossed out.

3 And then my last one, sorry for so many
4 of these, line 4, Participating in the
5 MEEIA BDR program with also taking should
6 be while instead of with.

7 Q. I'm sorry, what was the page number on that
8 last correction?

9 A. Oh, page 5. Sorry.

10 Q. Page 5, line 4?

11 A. Yes.

12 Q. Thank you. And with those corrections,
13 would your answers today be the same or
14 substantially similar to what you gave in
15 your pre-filed testimony?

16 A. Yes.

17 Q. And are your answers true and correct to
18 the best of your knowledge and belief?

19 A. Yes.

20 MR. CLIZER: At this time I
21 would offer as OPC Exhibit 200 the
22 surrebuttal testimony of Manzell Payne,
23 public and confidential versions, and
24 tender the witness for
25 cross-examination.

1 JUDGE SEYER: Any objection to
2 that testimony coming into evidence?

3 All right, Exhibit 200 is
4 admitted.

5 MR. CLIZER: I have tendered the
6 witness for cross-examination, your
7 Honor.

8 JUDGE SEYER: I understand.
9 Mr. Graham.

10 MR. GRAHAM: No questions.

11 JUDGE SEYER: Any cross on
12 behalf of Evergy Missouri West?

13 MR. ROBINSON: Yes, your Honor.

14 CROSS-EXAMINATION BY MR. ROBINSON:

15 Q. Hi, Manzell. My name is Mike. I just have
16 a few questions for you today.

17 To begin, you did not sponsor any
18 independent quantitative analysis of the
19 costs or benefits of Nucor's BDR
20 participation in this case, true?

21 A. I did not.

22 Q. Okay. And you also did not perform an
23 independent SPP resource adequacy analysis
24 for EMW, true?

25 A. I did not.

1 Q. And you also did not independently audit
2 the work papers underlying Mr. File's
3 avoided capacity figure, correct?

4 A. No.

5 Q. And you testified that you agree with the
6 positions that staff has taken in this
7 case; is that true?

8 A. Yes, up until their new position of
9 sponsoring portions of your guy's
10 stipulation, I --

11 Q. But beyond that, yes?

12 A. I believe so, yes.

13 Q. Okay, thank you. And are you aware that
14 staff has also not performed an independent
15 SPP resource adequacy analysis for EMW?

16 A. I am not sure what staff has done on that
17 front.

18 Q. Do you know if staff has in fact performed
19 an independent SPP resource adequacy
20 analysis for EMW?

21 A. I do not know.

22 Q. Okay. What about -- do you know if staff
23 has performed an independent quantitative
24 analysis of the costs or benefits of
25 Nucor's BDR participation?

1 A. No, not off the top of my head, but I feel
2 like that is on Evergy's -- I feel like
3 that is Evergy's burden of proof.

4 Q. Thank you. Mr. Payne, to be clear, you're
5 not against demand response programs in
6 general; is that true?

7 A. That is true.

8 Q. Nor are you against Nucor's participation
9 in demand response programs generally; is
10 that true?

11 A. I -- I believe I might have mentioned that,
12 I'm not against that. I think it's just
13 the current MEEIA structure.

14 Q. But you don't object to Nucor curtailing
15 load in general?

16 A. I don't think so.

17 Q. Isn't MEEIA at present the only
18 Commission-approved way for EMW to get
19 resource adequacy?

20 A. I actually do not believe that I am the
21 correct witness for that question. I think
22 Dr. Marke will be a better witness to
23 answer that question.

24 Q. All right, Mr. Payne. You have not
25 quantified the SPP resource adequacy value

1 that Nucor's megawatts of accredited
2 curtailment would deliver to EMW as a load
3 responsible entity, correct?

4 A. Can you restate that question?

5 Q. Sure. So the SPP resource adequacy value
6 that Nucor's megawatts of accredited
7 curtailment would deliver to EMW, you have
8 not quantified, calculated or otherwise
9 verified that value, have you?

10 A. I have not, but on that front of resource
11 adequacy, I would strongly encourage you to
12 ask Dr. Marke about that.

13 Q. Okay, thank you.

14 Now, you recommend that the Commission
15 deny EMW's application; is that true?

16 A. Yes, as the -- as it stood at the time.

17 Q. And your fallback recommendation is that
18 Nucor be directed to a non-MEEIA pathway,
19 correct?

20 A. Yes.

21 Q. And those are the -- those non-MEEIA
22 pathways that you reference are the SPP
23 demand response options in Mr. Hull's
24 rebuttal; is that true?

25 A. Yes, and I -- I believe Dr. Marke also

1 expands on those and I would recommend you
2 ask him those questions as well.

3 Q. So just to be clear, you have not
4 independently analyzed whether any of those
5 pathways would in fact deliver resource
6 adequacy value to EMW, true?

7 A. That is true.

8 Q. Okay. No further questions. Thank you.

9 JUDGE SEYER: All right.

10 Mr. Briscar.

11 MR. BRISCAR: No questions, your
12 Honor.

13 JUDGE SEYER: Are there any
14 questions from the Commissioners?

15 All right.

16 Any redirect?

17 MR. CLIZER: I guess just very
18 briefly.

19 REDIRECT EXAMINATION BY MR. CLIZER:

20 Q. You were asked a large series of questions
21 regarding performing independent analysis
22 just now, do you recall that?

23 A. Yes.

24 Q. Does your testimony rely on the analysis
25 performed by staff or Evergy with regard to

1 benefits?

2 A. No, it does not.

3 MR. CLIZER: I have no further
4 redirect.

5 JUDGE SEYER: All right. Thank
6 you for your testimony. You're
7 excused.

8 All right, Dr. Marke is the next
9 witness.

10 Would you raise your right hand?
11 Thank you.

12 GEOFF MARKE,
13 (of lawful age, having been sworn, testified as
14 follows:)

15 DIRECT EXAMINATION BY MR. CLIZER:

16 Q. Good afternoon, Dr. Marke.

17 Can you please state and spell your
18 name for the record?

19 A. It's Geoff, G-e-o-f-f, Marke, M-a-r-k-e.

20 Q. And by whom are you employed and in what
21 capacity?

22 A. By the Missouri Office of Public Counsel as
23 the chief economist.

24 Q. And have you prepared or caused to be
25 prepared pre-filed testimony which has been

1 marked as OPC Exhibit 201, surrebuttal
2 testimony of Geoff Marke?

3 A. Yes.

4 Q. Do you have any corrections to make or you
5 would like to make to that testimony?

6 A. No corrections.

7 Q. If I were to ask you the same questions,
8 pose that testimony today, would your
9 answers be the same or substantially
10 similar?

11 A. The same.

12 Q. And are those answers true and correct to
13 the best of your knowledge and belief?

14 A. Yes.

15 MR. CLIZER: Your Honor, I will
16 move for the admission of OPC
17 Exhibit 201, surrebuttal testimony of
18 Geoff Marke.

19 JUDGE SEYER: All right. Any
20 objection?

21 Exhibit 201 is admitted.

22 MR. CLIZER: Your Honor, I
23 tender this witness for
24 cross-examination.

25 JUDGE SEYER: Mr. Pringle.

1 MR. PRINGLE: Yes, thank you,
2 Judge. This is Travis Pringle on
3 behalf of staff.

4 CROSS-EXAMINATION BY MR. PRINGLE:

5 Q. Good afternoon, Dr. Marke.

6 A. Good afternoon.

7 Q. Now, was the OPC a signatory to the
8 non-unanimous stipulation and agreement
9 resolving Evergy's MEEIA Cycle 4?

10 A. We were.

11 Q. And are you aware of the company's position
12 that the Commission implicitly approved the
13 avoided costs in its application?

14 A. I'm familiar with the company's argument.

15 Q. As a signatory to the stipulation, is it
16 OPC's understanding that those avoided
17 costs were implicitly approved?

18 A. No.

19 Q. Why not?

20 A. Those avoided costs were an issue of
21 contention during the MEEIA case. What are
22 we avoiding, you know, was -- was
23 ultimately, you know, at -- at heart of the
24 MEEIA case.

25 In the first -- in that MEEIA

1 iteration, we actually had to combine Metro
2 and West together to go ahead and
3 effectively do the mental gymnastics.

4 And if the Commission will recall,
5 Evergy never went to hearing over its
6 MEEIA. That was a settlement that happened
7 outside of -- basically post Ameren going
8 to hearing. But a lot of the arguments
9 that were present in the Ameren case were
10 just as present in the Evergy case or even
11 more pronounced because -- for reasons that
12 have already been addressed.

13 There is no capacity market at SPP.
14 Parties, including OPC, came to an
15 agreement moving forward, but OPC and the
16 parties never explicitly articulated what
17 the avoided cost assumption is because,
18 again, that avoided cost assumption was
19 really just at -- at issue in terms of how
20 you could calculate it and --

21 MS. WHIPPLE: Judge, I'm sorry,
22 I'm going to have to object. This
23 violates the Commission's pre-filed
24 testimony rule. You know, staff's
25 question relates to the company's

1 position as filed.

2 OPC had an opportunity on
3 rebuttal and surrebuttal to offer
4 pre-filed testimony as to the avoided
5 capacity costs from Cycle 3 and that
6 implicitly being carried over to Cycle
7 4.

8 And so this testimony is just
9 being manufactured on the stand today
10 and it should have been offered in
11 pre-filed testimony months and months
12 ago.

13 MR. PRINGLE: May I respond? My
14 understanding is that this was brought
15 up in the surrebuttal testimony Brian
16 File, which there was no chance to
17 respond to that. So seeing as how this
18 is cross-examination and I am building
19 staff's case, this is a completely fair
20 question.

21 MS. WHIPPLE: And, your Honor,
22 it wasn't the -- this has been the
23 company's position since their
24 application and I actually think,
25 Travis -- I mean I don't -- we don't

1 have a live feedback here, but I think
2 that was your question. It really has
3 been since the company's application.

4 JUDGE SEYER: Well, given the
5 testimony that was offered with the
6 non-unanimous stipulation and
7 agreement, I'm going to -- I'm going to
8 overrule that objection and allow the
9 question.

10 MR. PRINGLE: Thank you, Judge.

11 Q. (By Mr. Pringle) And I forget where you
12 were at, Dr. Marke.

13 A. Well, Mr. Pringle, we're not avoiding
14 anything. I mean that -- that's really at
15 the heart of it. We're not avoiding
16 anything and the CCNs that we've got in
17 front of the Commission are evidence of
18 that.

19 You know, we spent -- context is
20 important for OPC, and why we were
21 signatory to that in part was because we
22 spent a good decade filing memos, filing
23 testimony effectively saying that Evergy
24 West ratepayers were exposed to the market
25 for a number of years.

1 We overpaid in fuel costs, we overpaid
2 in a -- in a number of different areas
3 because Evergy West elected to go ahead and
4 strand one of its coal plants.

5 Now, what's changed between now and
6 when that MEEIA was approved is -- I mean
7 heaven and earth has changed. We weren't
8 talking about data centers during that
9 first MEEIA. We weren't talking about the
10 -- the amount of generation that the
11 company is building moving forward here.

12 So when -- when we sit here and we're
13 -- we're -- the company is trying to
14 shoehorn an avoided -- avoided cost
15 estimate that's four, five years old that
16 was premised on shaky data at best, and
17 trying to put that as a forward proxy for
18 what we're actually avoiding is -- it
19 doesn't reflect reality.

20 Q. Thank you for that, Dr. Marke. And also
21 just a few questions for you about resource
22 adequacy. It is your understanding that at
23 least for the company's SPP resource
24 adequacy accreditation for summer 2026,
25 Nucor can't help that at this time,

1 correct?

2 A. There are no benefits for ratepayers if the
3 Commission approves this today, zero. It's
4 -- we're -- we're effectively saying here's
5 a million and quarter dollars that we're --
6 we're going to go ahead and section off to
7 the company and Nucor.

8 Q. And you're saying that's not even just this
9 summer but also next summer there'd be no
10 benefit?

11 A. Well, next summer the numbers will change
12 again. We will have to adjust for all of
13 the generation that we have brought on that
14 we are building moving forward.

15 Because you got to keep in mind, it's
16 not Evergy West here that we're talking
17 about, it's Evergy. So it's all of Evergy
18 combined that is part of that resource
19 adequacy.

20 And Evergy is long as -- as a holding
21 company, as -- as an entire entity, they
22 are long on capacity. So the -- so we get
23 the accredited resource adequacy from
24 deferring future load for Nucor, it's not
25 moving the needle one way or the other.

1 And then again, the -- the big X factor
2 that we have moving forward is we just
3 don't know what the world is going to look
4 like with these data centers.

5 Q. Thank you for your time, Dr. Marke.

6 MR. PRINGLE: I have no further
7 questions.

8 JUDGE SEYER: All right, cross
9 on behalf of Evergy.

10 MS. WHIPPLE: Not at this time,
11 thank you.

12 Judge, maybe this isn't the time
13 to raise it, but we would request to be
14 able to put Brian File back on the
15 stand to respond to the testimony of
16 Dr. Marke regarding the capacity (sic)
17 3 avoided capacity costs and his
18 understanding as a Cycle 4 stipulation
19 signator, which was new testimony just
20 now, so the company could respond to
21 it.

22 JUDGE SEYER: I'll allow that.

23 MS. WHIPPLE: And when would you
24 like that to happen? I don't want to
25 throw a wrench in it, but we could do

1 it after Dr. Marke has completed all of
2 his testimony and all of the questions
3 or whenever your Honor would like.

4 JUDGE SEYER: That would be my
5 preference.

6 MS. WHIPPLE: Okay, that would
7 be great. Thank you.

8 MR. CLIZER: Are all these
9 questions regarding the terms of a
10 stipulation that isn't in the record?

11 JUDGE SEYER: Is that a question
12 for me or is that a question for
13 Ms. Whipple?

14 MR. CLIZER: Honestly, it's an
15 open question at this point.

16 I mean should we put the Cycle 4
17 stipulation in the record at this stage
18 if we're going to have multiple
19 questions related to how to interpret
20 it?

21 MS. WHIPPLE: If your Honor is
22 eliciting responses from the parties on
23 that, I don't think that's necessary.

24 The testimony that we just
25 received for the first time today from

1 Dr. Marke was his perception of whether
2 the Cycle 3 avoided capacity costs were
3 implicitly brought forward in the
4 Cycle 4 order approving the Cycle 4
5 stipulation. That's the only question
6 and he gave a lot of testimony on that.
7 It's not about the stipulation itself.

8 MR. PRINGLE: I would also put
9 forward, Judge, that I think it would
10 be prudent for the Commission just to
11 take judicial notice of the report and
12 order approving that stipulation and
13 agreement.

14 JUDGE SEYER: Right, I agree
15 with you, Mr. Kramer -- or Pringle, I'm
16 sorry.

17 MR. PRINGLE: Thank you, Judge.

18 JUDGE SEYER: All right.
19 And so the Commission will take
20 judicial notice of that report and
21 order.

22 Okay. Mr. Briscar, do you have
23 any cross?

24 MR. BRISCAR: Just a couple.

25 CROSS-EXAMINATION BY MR. BRISCAR:

1 Q. Good afternoon, Dr. Marke.

2 A. Good afternoon, Mr. Briscar.

3 Q. Briscar, yes.

4 A. Brisc (phonetic).

5 Q. Briscar, yes. I represent Nucor in this
6 matter, as I'm sure you're aware at this
7 point.

8 Do you have a copy of your testimony in
9 front of you?

10 A. I do.

11 Q. Okay. I have a couple questions or just a
12 handful of questions about your testimony,
13 but I wanted to follow up on a response
14 that you gave to staff just now.

15 In response to a question, you stated
16 that if Nucor -- I'm paraphrasing here, but
17 if Nucor were allowed to participate in the
18 business demand response program in 2026,
19 it would provide no benefits in 2026; is
20 that correct?

21 A. Yes.

22 Q. But the stipulation in this case provides
23 for participation starting in 2027; is that
24 correct?

25 A. I don't know what you've stipulated with

1 the company over.

2 Q. You've not reviewed the stipulation?

3 A. I -- cursory.

4 Q. Okay, fair enough. If you'll refer to your
5 testimony at page 8, beginning at line 10
6 you have a question and answer about
7 basically data centers and their impact
8 going forward.

9 Are there any data centers on the SIL
10 tariff?

11 A. No.

12 Q. Do you agree that data center loads could
13 be very different than steel mill loads?

14 A. Sure.

15 Q. That data center loads generally have a
16 pretty high load factor, they run close to
17 all the time?

18 A. Generally data center loads are going to be
19 more flat.

20 Q. Right. And as we've heard today, the steel
21 mill loads can go up and down?

22 A. Right.

23 Q. And considering the data center loads, do
24 you agree that their ability and
25 willingness to participate in demand

1 response may be very different than that of
2 a steel mill?

3 A. I can't speak for the data centers.

4 Q. Fair enough. Thank you.

5 MR. BRISCAR: That's all.

6 JUDGE SEYER: All right. Are
7 there any questions from the
8 Commissioners?

9 All right. Mr. Clizer,
10 redirect?

11 MR. CLIZER: I guess just very
12 briefly.

13 REDIRECT EXAMINATION BY MR. CLIZER:

14 Q. With regard to the questions you received
15 regarding the difference between data
16 centers and a steel smelter, maybe I
17 misunderstood. What is -- what is -- what
18 is the significance of the data center that
19 you are bringing up?

20 A. Today, or really past tense at -- at this
21 point, when we contemplated Nucor, Nucor
22 was -- was a special snowflake in its
23 overall size. Moving forward, that -- that
24 distinction is -- is being eroded as you
25 bring in large data centers and large

1 customers. So the impact an individual --
2 that Nucor will have by default is going to
3 diminish as a result of that.

4 The last Q&A effectively in -- in my
5 testimony that Nucor referenced was just
6 largely just a -- a call more for the
7 Commission that, hey, there's a lot of
8 things in flux. SPP is changing their
9 rules literally as we speak. And as the
10 data centers materialize, there needs to be
11 a larger conversation about how demand
12 response works.

13 Q. Thank you. You, as part of your response
14 to staff questions, you made the statement
15 Everygy is long on capacity. For the sake
16 of the record, can you please explain what
17 you mean by long on capacity?

18 A. So the company is required to meet a
19 certain megawatt threshold. I -- I -- it
20 is constantly changing. It's -- it's
21 usually, you know, like a 10, 15 percent,
22 20 percent more than what their actual peak
23 demand is.

24 So the company invests or has invested,
25 you know, with all sorts of resources to

1 exceed that level. And that's been the
2 case. When -- when SPP looks and values
3 Evergy as a standalone entity, they're
4 looking at all the generation that's in
5 place.

6 And for their part, like Evergy is as
7 well. Evergy's not sitting there saying,
8 hey, it's peak demand time right now, we're
9 going to go ahead and -- and -- and focus
10 in on calling our -- our demand response
11 customers, because Evergy has assets that
12 they need to run to make money, okay? Like
13 that's -- that is the key component right
14 there.

15 And that's why demand response, unlike
16 in the MISO footprint, runs into a number
17 of challenges on the SPP footprint. Their
18 -- the value for ratepayers is severely
19 diminished because of the vertically
20 integrated nature of SPP.

21 Q. Thank you for that response. But to be
22 clear, for the sake of the record,
23 literally what does the word "long" mean?

24 A. They have more generation than they will be
25 able to utilize.

1 Q. Thank you very much.

2 And do you happen to know numerically
3 what that looks like?

4 A. I looked at the winter and summer SPP
5 resource adequacy reports. The summer has
6 the company long over --

7 (Court Reporter clarification.)

8 MR. CLIZER: Well, no. One
9 second.

10 Q. (By Mr. Clizer) Would that information be
11 confidential?

12 A. No.

13 Q. Okay, please continue. I apologize.

14 A. So I had had an opportunity to do -- to --
15 to effectively look at the resource
16 adequacy numbers that have been filed with
17 SPP. In the summer it's -- it's north of a
18 hundred. That's just the Evergy Missouri.
19 And if you throw in the Evergy Kansas with
20 it, it's well over a thousand. The winter
21 was over a thousand.

22 Q. And you throw out numbers without units. A
23 thousand what?

24 A. Megawatts. Sorry. Or a gig, so --

25 Q. Thank you very much.

1 MR. CLIZER: I have no further
2 cross-examination.

3 JUDGE SEYER: All right.

4 A. I stand corrected. It's 800 in the winter,
5 not -- not a thousand. Still much more
6 than what the load is for -- for Nucor.

7 Q. (By Mr. Clizer) Okay, thank you.

8 MR. CLIZER: I have no further
9 redirect.

10 JUDGE SEYER: All right. Thank
11 you, Dr. Marke.

12 And you have no further
13 witnesses, correct?

14 MR. CLIZER: No.

15 So is the Commission re-calling
16 Mr. File?

17 JUDGE SEYER: My position is
18 that she can re-call him as a rebuttal
19 witness if she would like to do.

20 MR. CLIZER: I would just like
21 to point out it would appear that we're
22 trying to develop competing testimony
23 over the different parties'
24 understanding of the implications of a
25 report and order.

1 Why would we need testimony
2 evidence for how different parties are
3 interpreting the Commission's report
4 and order?

5 MS. WHIPPLE: I'd also be happy
6 to strike Dr. Marke's testimony in that
7 regard from the record and not re-call
8 Mr. File.

9 MR. PRINGLE: I would also like
10 to point out, Judge, that the company
11 did not redirect Mr. File on this
12 topic. So I believe they've actually
13 lost their chance to do this.

14 MS. WHIPPLE: We couldn't --

15 MR. PRINGLE: It would be a
16 second bite at the apple.

17 (Court Reporter clarification.)

18 JUDGE SEYER: That was
19 Mr. Pringle.

20 MR. PRINGLE: Yes.

21 It was more have to do with on
22 cross-examination, Mr. File was
23 directly asked about the implicit
24 approval, and there were no further
25 questions from the company on it.

1 Seeing as how OPC was a signatory to
2 that same agreement, not quite sure why
3 they didn't ask Dr. Marke about it
4 themselves. They did not.

5 MS. WHIPPLE: Mr. File or
6 Dr. Marke?

7 I'm getting -- the chronology is
8 that Dr. Marke testified after Mr. File
9 did this day.

10 MR. PRINGLE: But, no, actually,
11 the chronology is Mr. File was
12 questioned about it and then on
13 redirect the company did not follow up
14 with him on it.

15 MS. WHIPPLE: Dr. Marke never
16 testified about this in his pre-filed
17 testimony. He just took the stand and
18 offered testimony that was never
19 previously offered in this case. That
20 violates the pre-filed testimony rule.

21 MR. PRINGLE: And again, I'm
22 looking at the surrebuttal testimony of
23 Mr. File. If the company can point out
24 where in his direct testimony he talked
25 about the implicit approval -- I'm not

1 finding it.

2 MS. WHIPPLE: Good news. I
3 think that we are going to withdraw the
4 request to have Mr. File take the
5 stand, and it has to do with my
6 misunderstanding of Mr. File's
7 testimony, and I understand now and I'm
8 comfortable with the record as is. And
9 thank you all for indulging me.

10 JUDGE SEYER: Okay.

11 MR. CLIZER: However, to be
12 clear, the Commission is taking
13 administrative notice or judicial
14 notice, whatever the proper phrase is,
15 of the report and order that we're all
16 attempting to interpret?

17 JUDGE SEYER: Yes.

18 MR. CLIZER: Thank you.

19 MR. PRINGLE: And for the
20 record, that number is EO-2023-0369 and
21 0370.

22 JUDGE SEYER: Could you give
23 those last four numbers again?

24 MR. PRINGLE: Yes. 0369, I
25 believe, was the Evergy Metro and 0370

1 was Everyg West, but they were both
2 settled together.

3 JUDGE SEYER: All right. I have
4 not seen anything in the filings that
5 indicated that expedited transcripts
6 were requested, so I would expect the
7 transcripts to be filed within ten
8 business days or so of today's hearing.

9 And then for the -- and then per
10 the procedural schedule, the initial
11 briefs are due June 18th and the reply
12 briefs are due July 2nd.

13 MR. STEINER: Could we have a
14 minute, your Honor?

15 JUDGE SEYER: Yes.

16 (Court Reporter clarification.)

17 JUDGE SEYER: That was --

18 UNIDENTIFIED SPEAKER: Unknown
19 voice.

20 MR. STEINER: Roger Steiner,
21 Everyg.

22 MS. WHIPPLE: Judge, if it's all
23 right with you, in light of the
24 transcripts coming out in ten days, the
25 parties have agreed, again if it's all

1 right with you, to change the briefing
2 schedule.

3 JUDGE SEYER: How so?

4 MS. WHIPPLE: If we could please
5 move the initial brief deadline. It's
6 currently July 17 -- I'm sorry, June
7 17. If we could please move it to -- I
8 think it's June 18, so -- is it the
9 18th?

10 MR. STEINER: But we want to
11 change it --

12 MS. WHIPPLE: But we want to
13 change it to June 25th.

14 JUDGE SEYER: Okay.

15 MS. WHIPPLE: And then the reply
16 brief deadline, I do not have that in
17 front of me, when it is, but we'd like
18 to change it to July 9th.

19 JUDGE SEYER: July 2nd.

20 So initial briefs would be due
21 on June 25th rather than June 18th and
22 reply briefs would be due July 9th
23 rather than July 2nd.

24 And all parties are in
25 agreement, correct?

1 MR. Graham: Yeah.

2 JUDGE SEYER: Okay. All right.

3 If there's nothing further -- is there
4 anything further, let me ask you that?

5 MR. PRINGLE: Just a little
6 housecleaning on the staff's part just
7 to make sure we got our exhibits in.

8 (Court Reporter clarification.)

9 MR. PRINGLE: This is Travis
10 Pringle on behalf of staff.

11 MR. GRAHAM: 100 through 105.

12 MR. PRINGLE: Yes. I believe we
13 have a public and confidential 100, a
14 public and confidential 101, a public
15 and confidential 102 and then a 103,
16 104, 105.

17 JUDGE SEYER: Right, all of
18 those exhibits were previously admitted
19 into evidence.

20 MR. PRINGLE: Thank you, Judge.

21 MR. CLIZER: John Clizer for
22 OPC.

23 Is the Bench going to take or
24 will the Commission take all the
25 pre-filed exhibits without us

1 submitting copies?

2 JUDGE SEYER: Correct.

3 MR. CLIZER: Thank you.

4 JUDGE SEYER: All right. So
5 with that I'll adjourn the hearing.
6 We'll go off the record.

7 COMMISSIONER MITCHELL: Thank,
8 you, Judge.

9 (The hearing concluded at 3:32
10 p.m.)

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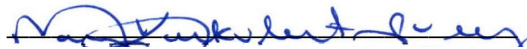
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CERTIFICATE

I, MARY KERKVLiet IVEY, Certified Court Reporter within and for the State of Missouri and Certified Court Reporter within and for the State of Kansas, hereby certify that the foregoing pages constitute a true and accurate transcript of the matter set forth in the caption hereof and that said transcript is now herewith returned.

I further certify that I am not court reporter, employee, counsel, attorney or relative of either party, or otherwise interested in the event of this suit.

I have hereunto set my hand at my office in Shawnee, Kansas, this 2nd day of June, 2026.



MARY KERKVLiet IVEY
CERTIFIED COURT REPORTER MO529
CERTIFIED COURT REPORTER KS863

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